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National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*

Samoa

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Abbreviations

ACEO	Assistant Chief Executive Officer
CASH	Climate Adaptation Strategy for Health
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CED	International Convention for the Protection of All Persons from Enforced Disappearances
CEO	Chief Executive Officer
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
DPO	Disabled Peoples Organization
ECE	Early Childhood Education
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organization
LERA	Labour and Employment Relations Act 2013
MCIL	Ministry of Commerce, Industry and Labour
MDG	Millennium Development Goals
MESC	Ministry of Education, Sports and Culture
MFAT	Ministry of Foreign Affairs and Trade
MOF	Ministry of Finance
MOH	Ministry of Health
MJCA	Ministry of Justice and Courts Administration
MOP	Ministry of Police
MPMC	Ministry of the Prime Minister and Cabinet
MWCSD	Ministry of Women, Community and Social Development
MSS	Minimum Service Standards
NMRF	National Mechanism for Reporting and Follow up
NCECES	National Council of Early Childhood Education for Samoa
NDMO	National Disaster Management Office
NGO	Non-Governmental Organization
NHRI	Office of the Ombudsman/National Human Rights Institution
NUS	National University of Samoa
OAG	Office of the Attorney General
OHCHR	Office of the (UN) High Commissioner for Human Rights
OPCRC	Optional Protocol on the Convention on the Rights of the Child

PSC	Public Service Commission
PSET	Post School Education and Training
PSU	Professional Standards Unit
PUMA	Planning and Urban Management Agency
SDG	Sustainable Development Goal
SDS	Strategy for the Development of Samoa
SIU	Special Investigations Unit
SPC RRRT	Secretariat of the Pacific Community Regional Rights Resource Team
SPCS	Samoa Prison and Correctional Services
SSFGS	Samoa School Fees Grant Scheme
SLRC	Samoa Law Reform Commission
TVET	Technical & Vocational Education and Training
UNDP	United Nations Development Programme
WCE	Working Conditions and Entitlements Manual

Acknowledgments

1. The Government of Samoa acknowledges the work of the UPR taskforce in the compilation of this report and the technical assistance provided by OHCHR and SPC/RRRT during the process. Furthermore, all contributions made by stakeholders are acknowledged as essential in being able to provide a full report on the successes and challenges within Samoa in the protection and promotion of human rights.

Introduction

2. The Government of Samoa (*"Government"*) welcomes this opportunity to provide a response to the recommendations made at the first reporting cycle of the Universal Periodic Review. Samoa's first Universal Periodic Review (UPR) took place in May 2011.

3. As stated in the first report, the Government of Samoa remains committed to the promotion and protection of human rights of all persons and will continue to strive to address these challenges in cooperation with Non-Governmental and Civil Society organisations, individuals, development partners including international and regional organizations in the area of human rights.

4. This National Report (*"Report"*) is drafted with reference to the second cycle of the Universal Periodic Review ("*UPR*") on the four year human rights progress in Samoa. This Report is submitted in accordance with Paragraph 5 of the Annex of Human Rights Council resolution 16/21.

I. Methodology and consultation

5. This Report is the result of work undertaken by the National Universal Periodic Review Taskforce Working Group ("Taskforce") which included a national consultation and joint information session for Government and NGOs on the 2nd Periodic Review Report.

6. These consultations were carried out by the Ministry of Foreign Affairs and Trade (MFAT) with taskforce members from the Office of the Attorney General (OAG), Office of the Ombudsman/National Human Rights Institution (NHRI), Ministry of Women, Community and Social Development (MWCSD), Ministry of Commerce, Industry and Labour (MCIL), Ministry of Health (MOH), Ministry of Education, Sports and Culture (MESC), Ministry of the Prime Minister and Cabinet (MPMC), Public Service Commission (PSC), Ministry of Police (MOP), Samoa Prison and Correctional Services (SPCS), Ministry of Finance (MOF), Ministry of Justice and Courts Administration (MJCA), and the National University of Samoa (NUS).

7. The Pacific Islands Forum Secretariat, Office of the High Commissioner for Human Rights Secretariat and the Secretariat of the Pacific Community provided technical and financial assistance to the Government. The Government ensured that the processes involved in preparing the report were inclusive and invited members of the civil society to the first consultation.

8. The first consultation on the report with Government and civil society groups was held from 18–21 August 2015 in Apia, Samoa. Government also invited contributions from national Non-Government Organisations (NGOs) on the adopted recommendations and emerging human rights issues.

II. Existing human rights framework

A. National laws, legislation and treaty obligations

9. The Constitution of the Independent State of Samoa (1960) is still the supreme law of the land, with Part II setting out the fundamental rights recognised by Samoa which includes the right to life, personal liberty, freedom from inhumane treatment, freedom from forced labour, right of fair trial, rights concerning criminal law, freedom of religion, rights concerning religious instruction, freedom of speech, assembly, association, movement and residence, a person's rights regarding property and freedom from discriminatory legislation.

10. Although Samoa is not a party to all core human rights treaties, the Government is committed to ensuring effective monitoring of the human rights situation on the ground and to meet the targets outlined in the Constitution, National Development Plan and related frameworks. Samoa adheres to the United Nations Charter and the Universal Declaration on Human Rights.

11. The international human rights treaties ratified by Samoa are: (1) Convention on the Elimination of all forms of Discrimination against Women (CEDAW); (2) Convention on the Rights of the Child (CRC); (3) International Covenant on Civil and Political Rights (ICCPR); and (4) International Convention for the Protection of All Persons from Enforced Disappearances (CED).

12. Samoa is ensuring that it complies with its international obligations and has cooperated with specific international human rights mechanisms to support the establishment of its National Human Rights Commission.

B. National measures and policies

13. The National development strategy for Samoa namely SDS (2012–2016) has as its theme "Boosting Productivity for Sustainable Development".

14. The document presents the key development strategies and priority sectors for the development of Samoa in the four years 2012–2016 and drew on the review of the previous SDS and views expressed during the stakeholder consultations. The 2012-16 SDS placed emphasis on the implementation of the three pillars of sustainable development, i.e strengthening economic resilience through increasing investment in the productive sectors of the economy namely tourism and agriculture/fisheries as well as providing key infrastructure. As well, priority remains on the promotion of an educated and healthy population, social cohesion with enhanced quality service delivery for all. The Strategy also paid recognition of the importance of the environment through sustainable management of natural resources, increased investment in renewable energy sources, and mainstreaming climate change and disaster resilience. Additional to the integrated consideration of all the three pillars of sustainable development is the emphasis placed on the prioritising the needs of the most vulnerable groups.

15. The processes for the development of the new SDS (2017–2020) have begun and follow the normal procedures for nationwide consultations. It is the intention that the 2030 agenda inclusive of the SDGs as well as the S.A.M.O.A Pathway will be integrated into the new Strategy in the same way the MDGs were.

16. The 15 completed sector plans are the modality through which the national development strategy is implemented namely: Agriculture/fisheries, Education, Communications, Community Development, Energy, Environment, Finance, Health, Infrastructure, Law & Justice, Public administration, Transport, Tourism, Trade Commerce

& Manufacturing, Water and Sanitation, Gender, climate change and disaster risk management are cross cutting elements of the national development strategy.

17. The Samoa Law and Justice Sector Plan 2012–2016 details the Sector's four-yearly objectives, goals and primary strategies and focuses on five Sector Goals:

(a) Ensuring community safety through improved crime management and prevention;

(b) Improving access to justice, law and legal services;

(c) Recognising customary-based justice and integrating or harmonising it with the formal justice system;

(d) Promoting integrity and good governance in formal and customary processes and services; and

(e) Building Sector agency capacity and improving service coordination.

C. Official authorities and State institutions with human rights mandate

Office of the Ombudsman

18. The *Komesina o Sulufaiga* (Ombudsman) Act 1988 has been repealed and replaced by the Ombudsman (*Komesina o Sulufaiga*) Act 2013. The new Act expands the mandate of the Office so that it is now responsible for (1) ensuring the application of good governance by public agencies; (2) the promotion and protection of human rights (thus becoming the National Human Rights Institution); and (3) the investigation of complaints against the police and other prescribed forces. In 2015 the Constitution was amended to include the appointment and functions of the Ombudsman.

Samoa Law Reform Commission

19. The SLRC was established in 2008 as part of the Office of the Attorney General and was later formally separated and became independent from the Office of the Attorney General in 2013.

20. Since the UPR in 2011 the SLRC has been actively engaged in legislative reforms in order to achieve compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Convention on the Rights of the Child (CRC). A total of 11 laws have since been reformed, including the reform of the Crimes Ordinance 1961 which is now repealed by the Crimes Act 2013.

21. A legislative compliance review of the Convention on the Rights of Persons with Disabilities (CRPD) was conducted in 2012 and a comprehensive Legislative Compliance Review of the laws of Samoa was completed in April 2015. There is an intention to reform laws to domesticate CRPD. The legislative compliance review is near complete and trainings have been conducted and are still ongoing in relation to CRPD.

The Electoral Commission

22. The work of the Office of the Electoral Commissioner leading up to the 2016 General Election focused on ensuring that all citizens of Samoa eligible under the Electoral Act 1963 to become voters are given the opportunity to register themselves on the electoral rolls so that they can exercise their right to express their freedom of expression by either casting their vote or otherwise.

23. As Samoa has become a signature to the Convention for the Rights of People with Disabilities, an emphasis was placed on registering people with disabilities both in Upolu

and Savaii. Plans are also in place to convert electoral materials into braille form so that the electoral process is as accessible as possible to all citizens of Samoa regardless of their gender, status or whether or not you have a disability.

24. Furthermore plans are also in place to identify special ballot booths specifically for people of disabilities, and those with mobility issues. Temporary ramps will be built at these booths so that accessibility is not an issue.

III. Implementation of international human rights obligations and public awareness of human rights

25. The Ministry of Foreign Affairs and Trade is responsible for facilitating human rights treaty body reporting. This responsibility is shared with the Ministry of Women, Community and Social Development who lead on CEDAW and CRC reporting.

26. The courts are independent and have in the reporting period used human rights standards and norms in making decisions. Some key decisions protecting the rights of the child and women, as well as persons with disabilities include:

(a) In the case of Police v BA [2014] WSYC 2 (12 June 2014), a young person was charged with sexual conduct with a child under 12 years old pursuant to section 58 (1) of the Crimes Act 2013. In considering the sentence for this young offender, Justice Tuatagaloa stated at paragraph 52: *"I am also mindful of the rights of young people under the United Nations Convention on the Rights of the Child; the rights of the young people to have their needs for rehabilitation and reintegration respected through the criminal justice system"*.

(b) In the matter of Police v Lemalu [2015] WSSC 79 (20 August 2015), the accused appeared for sentence on two charges of sexual conduct with a dependent family member under 21 years old. The accused was 43 years old and the victim was 15 years old at the time of the offending. In discussion of the sentencing features, the Honourable Chief Justice Sapolu highlighted at paragraph 26 the CRC by stating: *"I am also mindful of the rights of young people under the United Nations Convention on the Rights of the Child; the rights of the young people to have their need for rehabilitation and reintegration respected through the criminal justice system."*

27. In recent years there has been an increase in awareness programs delivered by the Ministry of Women, Community and Social Development, Ministry of Police, Samoa Family Health Association, Samoa Victim Support , Samoa Faafafine Association, Samoa Family Health Association, Nuanua o le Alofa, SENESE, Loto Taumafai, Special Olympics, Pan Pacific South East Asia Women's Association, National Council of Churches, Samoa Association of Women Graduates, National Council of Women, Samoa Women's Development Committee, Samoa Alamai Group, and the National Human Rights Institution. However there still is a need to develop courses within the University and school curriculum on human rights.

28. The consultations that were carried out for the SHRR with 7 schools, University and the National Youth Council Members last year helped identified human rights issues not only for the purpose of the report but it assisted in the planning process of human rights education and training in schools for Samoa. These consultations explored the views, knowledge and understanding of children and young people of Samoa of human rights. It clearly confirmed the need for human rights education and training to help address the misconceptions of human rights amongst children and young people.

29. This year will kick start the "My Rights Friendly School Program" for Samoa as part of the human rights activities work plan. The Program will consist of human rights

education activities targeting students of 3 schools covered in the previous consultations. The program aims to eventually cover all schools that were involved in the report consultations and extend to cover all schools in Samoa pending available resources and office capacity. The idea of this program is not only tackling human rights education for students but also aims to extend human rights education for teachers, parents and school committees to further enhance the effectiveness of the program and further promote better understanding of school communities of the value of understanding and application of human rights in school environment. The program will also include various activities which include the Schools MOCK UPR competition which will be carried out in cooperation with OHCHR to raise students understanding of UPR and what it entails particularly as Samoa will be reviewed by the UPR committee this year. It is hoped that the activities for the My Rights Friendly School Program will be carried out in cooperation with different organisations both international and local to encourage a variety of knowledge and resources.

30. Basic Human Rights Education for Police Recruits which started last year in cooperation with UNWOMEN and we will be continuing this same training this year to provide police recruits better understanding of human rights which will help them better perform their jobs to protect and uphold the rights of the public. This year human rights education training will be done alongside the promotion of the role of the office in public sector.

31. The community and the Samoa National Council of Churches can play a stronger role towards transforming negative public perceptions towards the acceptance and practice of women's human rights and ending domestic violence. The Ministry of Women, Community & Social Development and Ministry of Police continue to conduct outreach programs in the villages in collaboration with NGOs under the frame of the CEDAW Partnership Committee.

IV. Action taken since last UPR

A. Establishment of a National Human Rights Institution (NHRI)

(Recommendations 73.15–73.24, 75.22–75.26)

32. In 2013 an NHRI was established within the existing Office of the Ombudsman as a result of recommendations made during Samoa's first UPR. The Ombudsman Act 2013 mandates the NHRI with monitoring, promoting and protecting human rights in Samoa.

33. The Asia Pacific Forum of NHRIs worked jointly with the Office of the Ombudsman and the Attorney General's Office to ensure the establishment of a Paris Principles compliant National Human Rights Institution and the Office submitted its application for accreditation to the International Coordinating Committee in January 2016.

34. The NHRI is fully functional and consists of the Ombudsman as the Human Rights Commissioner, an Advisory Council (12) and four (4) staff and growing.

35. Since its establishment the NHRI has undertaken a range of work including human rights training of law enforcement officials, inspections of places of detention, education and outreach activities and produced a comprehensive state of human rights report.

B. Justice and law reforms

(Recommendations 74.25–74.26)

Community Law Centre

36. The Government passed the 2015 Community Law Centre Act 2015 (assented by the Head of State on 9 July 2015 and to come into force on a date nominated by the Minister) establishing a Community Law Centre. This Centre is to be headed by a Public Advocate who provides legal assistance to people who cannot afford a private lawyer. This is a great milestone for the legal profession to ensure equal access of justice for the people of Samoa.

37. The Centre provides legal assistance on criminal and civil matters and to qualify an individual has to satisfy certain prescribed requirements. The prescribed requirements must comply with the following:

- Cover persons who cannot financially afford lawyers to represent them in courts;
- For criminal cases, to take into account the number of previous convictions of applicants for legal assistance;
- Deal with matters relating to ascertaining the financial affordability of a lawyer by the applicant; and
- Deal with any other prescribed requirements for legal assistance.

38. The Centre is currently under the process of establishment as a prioritised activity under the Law and Justice Sector Plan. However, legal aid services are currently provided by MJCA. Statistics from the year 2013–2014 illustrate that 80% of people are unrepresented in court (MJCA). The idea behind setting up the Centre is to provide more basic legal services available to the public on a pro bono basis and it is the aim that once it is established this percentage is minimised, and more people are afforded equal access to justice.

Special Investigations Unit

39. In addition to establishing the NHRI, the Ombudsman Act 2013 provided for the establishment of a 'Special Investigations Unit' (SIU) to independently monitor and investigate complaints against the police and other prescribed forces. The Ombudsman (Special Investigations Unit) Regulations 2015 have been approved by Cabinet and are awaiting signature by the Head of State. A Director of Good Governance and the Special Investigations Unit and Investigations Officer are currently being recruited and the SIU will be functioning by the time of the UPR Review.

Anti-Corruption Commission

40. Improving public sector integrity is one of the key goals of the Public Administration Sector Plan 2014-2018 that has been developed by PSC and accordingly there is current work towards the establishment of an independent anti-corruption commission.

41. One of the key activities under the third goal for the Plan is a scoping study to determine whether there is a need to establish an independent Anti-Corruption Agency in Samoa. A consensus was reached at the first review of the Public Administration Sector Plan 2014-2018 to establish an Integrity Commission instead of the aforementioned Agency.

42. The Public Administration Sector anticipates that initial discussions on the feasibility of such a body between relevant Government agencies such as the Office of the Ombudsman, the Office of the Attorney General and the Public Service Commission would be underway in late 2016.

43 The Sector intends to solicit technical assistance from Samoa's development partners to inform the design and structure of the Commission, should Cabinet approve of a proposal for its establishment.

44. One of the functions of the Ombudsman Act is to promote public awareness of human rights and efforts to combat all forms of discrimination or corruption through the provision of information and education.

45. The Crimes Act 2013 criminalizes judicial corruption, bribery of judicial officers, corruption and bribery of Ministers of the Government of Samoa, corruption and bribery of law enforcement officers, corruption and bribery of officials and corrupt use of official information.

46. In terms of development cooperation, all of Samoa's development partners sign financing agreements with the Government of Samoa which include anti-corruption and anti-fraud provisions.

C. Women

(Recommendations 73.13-73.14, 73.29-73.32, 74.1–74.3, 74.8, 74.10–74.11, 74.15, 74.18, 74.28, 75.31)

Family Safety Act

47. During the 2011 UPR the Family Safety Act 2013 was still a Bill, however, since then it has been passed and is now enforced. The Family Safety Act 2013 provides for the protection of women and children from domestic violence.

48. A Specialist Family Violence Court has been set up to deal with family violence issues and child protection. A related development has been the establishment of the Alcohol and Drugs Court in 2015 which looks at a system by which the court provides rehabilitation services for offenders. Statistics indicate that gender based violence is associated with alcohol consumption.

49. Since the last report, national efforts such as 16 Days of Activism on the Elimination of Violence against Women, White Ribbon Day and National Human Rights Day, International Day for Prevention of Child Abuse and Neglect are some of the major campaigns that are coordinated jointly by Government, NGOs and community based organisations. There has been an increase in the engagement of village communities to address violence within the village, where women and untitled men's groups have initiated village violence free advocacy campaigns.

50. The recent work by the National Council of Women on working with women's committees and village women representatives is also complementing the ongoing efforts at national level to increase village and individual responsibility towards ending gender based violence.

CEDAW Compliance

51. The Samoa Law Reform Commission is leading the CEDAW legislative Compliance Review with public consultations recently completed under the oversight of the MWCSD. The Samoa Victim Support Group have been instrumental in raising awareness

programs and assisting women and children in getting court orders against men who perpetuate domestic violence against women. The enactment of the Family Safety Act and the Family Court Act are contributing to this fight against discrimination and the protection of the rights of women.

52. MWCSD through their partnership with SPC RRRT have supported awareness raising trainings for village representatives and for Police Officers. Specific training for Police Officers have focused on understanding, enforcing with due diligence, care and being gender sensitive and caring in the delivery of their roles as outlined under the Family Safety Act.

53. The National Policy for Women 2010–2015 was endorsed by Cabinet in 2010 and is currently under review with independent technical support from the Secretariat of the Pacific Community. One of the key policy outcomes includes 'increasing women's participation in public life and decision making'. The policy identified as one of its main activities the support for increasing women's participation in political and public life. The review upon finalization will set the priorities for the development of the new Gender and Women's policy for the next 5 years as well as a program for implementation.

54. Resources mobilised through the Samoa Women Shaping Development Program funded by the Government of Australia and UNDP/UN Women as part of Government's strategy to increase the civic participation of women. Some of the milestones achieved to date include:

(a) Voter Education Programs and Good Governance & Leadership Community Conversations Advocacy programs carried out by OEC in partnership with major women's groups operating at the community level such as the National Council of Women, Samoa Development Committee Alamai and Samoa Umbrella for Non-Government Organisations, supported by UN Women/UNDP & MWCSD;

(b) Youth & Women's Mock Parliament implemented by Office of the Legislative Assembly in partnership with UNDP;

(c) Women's Political Caucus workshops and media outreach conducted by Samoa Alamai and supported by development partners (UN Women/UNDP/US Embassy) under the different Memoranda of agreements facilitated through the different bilateral programs between Government and its donor partners;

(d) Good Governance Programs spearheaded by the MWCSD where village by-laws are developed based on good governance principles. Women and young people's participation in developing their village by laws alongside the village council is evidence of practicing good governance principles.

Marital Rape

55. The Crimes Act 2013 of Samoa criminalizes rape within marriage. Section 49 (4) states that a person may be convicted of sexual violation in respect of sexual connection with another person notwithstanding that those persons were married to each other at the time of that sexual connection.

56. Section 52 of the Crimes Act 2013 provides that a person who commits rape is liable for life imprisonment and a person who commits unlawful sexual connection is liable to imprisonment for a term not more than 14 years.

D. Children

(Recommendations 73.31, 73.36–73.39, 74.18–74.24, 75.36, 75.8)

Education

57. Section 23 of the Education Act 2009 prohibits corporal punishment in schools and is to be used as a police to discipline students.

58. Key recommendations relating to the education sector were implemented. Infrastructure improvements remains a priority, issues on access to education for persons with disabilities, accessible schools and appropriate equipment and information provided in accessible formats. Inclusive education is a priority and something that is slowly being implements in schools from the primary to tertiary level. Other programs implemented include early childhood education; however, resources remain a key barrier. Compulsory education is still being promoted and mandatory by law (Compulsory Education Act 2009) with penalties for parents who fail to send children to school in accordance with the law.

59. Compulsory Education is one of the provisions of the Education Act 2009 that is stipulate under Part II, Division 4, number 20, as *Employment of compulsory school-aged child*. The provision aims to engage the compulsory aged-child throughout the school hours in school rather than being involved in street trading during school hours.

60. In enforcing and encouraging this provision, there are various interventions put into operation to ensure increased access to education for compulsory aged-children in Samoa. The following are some of the interventions that contribute to increased access to education or the rights to education.

61. The Samoa School Fees Grant Scheme (SSFGS) is a strategy by the Government of Samoa and supported by the Government of Australia and New Zealand initially to offset some of the impacts of the global recession on the people of Samoa. It is also a means to enhance the accessibility of basic school education by all children of Samoa from Year 1 to Year 11, with the aim for Samoa to achieve universal free and compulsory education by the year 2015 under MDG 3. The SSFGS provides schools with funds to help them meet the Minimum Service Standards (MSS) thus improving Learning and Teaching. All schools except for private schools for both primary and secondary levels are eligible to receive funding under the Samoa School Fees Grant Scheme.

62. The fourth year of the scheme following a mid-term review recorded numerous achievements and benefits at the school and district levels that contribute to the Government's effort to improve the quality of education for primary school students. Some of the significant achievements made include:

- Steady increase in enrolled students despite fluctuations from year to year;
- Progressive rate in all year levels besides Year 8 to Year 9 and Year 1 to 2 is above 94%, indicating a sound internal efficiency of the education system at these year levels;
- Primary drop-out rates have been low over recent years, except for 2010–2011. Drop-out in all year levels besides Year 1 to 2 and Year 8 to 9 have a lower proportion of students leaving school before completing the school year;
- 198 students were recorded to have attended schools for the first time in their lives since the commencement of the scheme. Of this number, 60% were those who attended schools because they were not required to pay any fee, although they are still required to pay a much lesser fee for registration.

63. The Compulsory Education Spot Check Patrol program is a joint strategy between MESC and the Ministry of Police to be conducted in the beginning of every academic year. This initiative is part of the many efforts carried out to enforce the Compulsory Education provision of the legislation. The ultimate objective of conducting spot checks are to ensure that every child between the ages of 5–14 attend School during school hours and school days instead of spending time on the street as street vendors or other reasons. It also ensures parents prioritize their children's education over other things. The program is part of a continuous effort to enforce the Education Act 2009 since its enactment in 2010. The Spot Check program is ongoing and is normally conducted at the beginning of each school term in January, April, June and September.

64. An annual Government grant of $6 million is distributed to all education providers outside Government who contribute in developing the education system in Samoa. These include Mission Schools, Private Schools, Special Needs Schools, Early Childhood Education Schools and National Council of Early Childhood Education for Samoa (NCECES). The Ministry of Education, Sports and Culture was tasked under the directive from Cabinet to allocate this grant appropriately, the premise usually being the school rolls.

65. The Government of Samoa funds the procurement of stationery for all Year 1 up to Year 13 students. The stationery is under the management and control of the MESC, and are distributed to all Government schools before school starts every year. Other schools such as Missions, Private, ECE and Special Needs may also receive free supplies of stationeries upon requests to the Ministry of Education, Sports and Culture.

66. The Minimum Service Standards (MSS) for both Schools and Early Childhood Education (ECE) are all in place to ensure and encourage school improvement from year to year.

67. An allocation of 7.5% of the $6 million grant from the Government is allocated to ECE from year to year to support education at this level. The ECE policy and its MSS documents are in place to guide and lead the smooth implementation of ECE in Samoa.

68. Samoa received a recommendation to lift the reservation made to article 28 paragraph 1 (a) of the CRC. Although Samoa noted this recommendation, it has taken a step towards implementing free education in Samoa. Today, education is free for all Government primary schools (not affecting private schools who operate on a school fee paying scheme).

Children with disabilities

69. The Inclusive Education Policy 2014 recently approved by Cabinet focuses on improving educational opportunities and outcomes for young children and students with disabilities during early childhood, school, and post-school sub-sectors.

70. The Samoa Inclusive Education Demonstration Program was an initiative implemented in 2010, to support and strengthen Inclusive Education [Special Needs] which was firstly introduced in 2009.

71. The program is funded under the Samoa-Australia Partnership and is to be implemented over a five year period. The program demonstrated a model of service provision for girls and boys with disability for inclusive education, which could be sustained and supported by the Government of Samoa in its future program development.

72. One of the early deliverables include greater access, retention, progression, and gradual integration into the regular school system for both girls and boys with disability, in rural and urban areas in Samoa. Two NGOs namely SENESE and Loto Taumafai assisted in the implementation of this program. One of the milestones recorded is that 277 children

with disabilities now have access to school in Samoa or early intervention services in Samoa. This is an increase from 134 as recorded in 2009.

73. The plan is for the MESC to take full ownership and management of inclusive education services by 2016.

Child labour

74. In relation to eliminating child labour the 1972 Labour and Employment Act was reviewed. The newly enacted labour law regulates the employment of children. Section 51 of the Labour and Employment Relations Act 2013 states that no person must employ a child under the age of 15 except in a safe and light work suited to the child's capacity, or a child under 18 years on dangerous machinery or in any other working place or condition injurious to the physical or moral health of the child, or a child under 15 years on a vessel unless such vessel is under the personal charge of the parent or guardian of the child.

75. In addition, recent reforms include revisiting the definition of 'light work' in relation to children's employment to ensure that what constitutes child labour is tailored towards the local context and within a particular setting or context. Joint efforts by MCIL, National Workers Congress, and members of a newly set up Child Labour Taskforce have started in an attempt to implement basic strategies to address issues of children involved in vendor services' particularly during school hours.

76. MESC through their Compulsory Education Taskforce enforces compulsory education particularly with a focus on child vendors.

77. The MWCSD Child Care and Protection Bill states provisions for ensuring protective mechanisms for children selling goods in public settings which has been raised as a public safety issue.

Justice

78. The Young Offenders Act 2007 sets the minimum age of criminal responsibility at 10 years of age. However, the new Sentencing Bill 2015 and Criminal Procedure Bill 2015 provides for a child to be a person under the age of 18 years to comply with requirements under the CRC. There have been discussions to amend the Young Offenders Act 2007 to align with these new changes and to comply with requirements under the CRC.

79. The current minimum age for criminal liability is provided in section 3 of the Crimes Act 2013 which states that no person under the age of 10 years is to be charged with any criminal offence. Section 5 of the Young Offenders Act 2007 provides that any criminal charge brought against a "young person" must be laid in the Youth Court whereby "young person" is defined in the Act as any person of or over the age of 10 years and under the age of 17 years. On that note, a person charged with an offence that is 17 years and above is dealt with in the District or Supreme Court as an adult.

80. There have been discussions on equalizing the legal minimum age of marriage for girls and boys to comply with CRC. The necessary changes will be made to the relevant legislation. The current minimum age of marriage is 18 years old for a male and 16 years old for a female as per section 9 of the Marriage Ordinance 1961 of Samoa. This will soon be changed to equalize the legal minimum age of marriage for both male and female to 18 years old.

81. Section 157 of Samoa's Crime Act 2013 provides that a person who deals with persons under the age of 18 years for sexual exploitation, removal of body parts or engagement in forced labour is liable for an imprisonment term not exceeding 14 years.

82. Section 72 criminalizes a person who has a sexual intercourse or sexual connection, or agrees, or offers to have sexual intercourse or sexual connection with another person for gain or reward. This covers all persons including children. Furthermore, section 74 makes a person who is living on earnings of prostitution liable to imprisonment.

83. Section 58 specifically provides protections of children and young person from sexual conduct i.e. sexual connection or attempts to have sexual connection with a child an offence, whereby a child means a person under the age of 12 years. Section 59 makes sexual connection or attempts to have sexual connection with a young person less than 16 years of age an offence. A young person means a person who is 12 years or over and under the age of 16 years. Section 218 makes it an offence for any person to carry out any act of solicitation of children.

84. Under section 82 of the Crimes Act 2013 it provides that production, publication, distribution or exhibition of indecent material on a child or on a child through an electronic system is an offence and is liable to imprisonment for a term not exceeding seven (7) years.

85. Section 9 of the Infant Ordinance 1961, provides that it is unlawful for a person to give or receive or agree to give or receive any payment or reward in consideration of the making of arrangement for adoption or proposed adoption.

E. Non-discrimination and gender equality

(Recommendations 73.14, 73.30, 74.30, 75.29–75.31)

Female representation in Parliament

86. Following the first review a significant constitutional amendment was made in 2013 where a 10% quota was introduced to reserve five (5) seats for women in parliament. This is another step towards achieving gender equality for women in the political arena as well as towards compliance with CEDAW. This constitutional guarantee will be implemented in March 2016 when Samoa enters elections.

Employment

87. The Public Service Commission (PSC) in its Public Service Act 2004 and Policies (Working Conditions and Entitlements Manual - WCE) advocates for equal employment opportunity for both females and males. Under the current WCE manual, women are entitled to 2 months maternity leave with pay and they can take up to 26 weeks without pay.

88. Recently, PSC has reviewed its policy to be in-line with the International Labour Organisation (ILO) and the Convention Eliminating Discrimination Against Women (CEDAW) to increase the maternity leave entitlement to 3 months with pay and 3 and a half months without pay. The revised maternity leave policy also recognizes for the first time, stillborn babies, miscarriages and legal adoption of newborn babies and those up to 12 months. Female employees will be entitled to 4 weeks with pay and up to 26 weeks without pay. Male employees in the public service are entitled to 5 days Paternity Leave.

89. The Recruitment and Selection Process in the public service is based on the four merit factors which are Personal Attributes, Skills and Abilities, Experience and Qualification. Selection is not based on gender. Statistics show that for Government ministries there are 13 male CEOs and 5 females and at ACEO level there are 52 males and 73 females. For Government corporations, 50% of CEOs are females.

90. PSC also has a grievance process whereby an employee can lodged a grievance against unfair treatment, harassment etc. PSC is also currently working on developing a Workplace Harassment Policy for the Pub... Sector.

91. PSC also has a managing breaches of the Code of Conduct to deal/or handle grievances that will result in the breach of the Code of Conduct under the PS Act 2004.

92. The Public Service Salary Scale is based on the work value and not on the person doing the job. Thus, the whole Public Service follows a Unified Public Sector Salary Scale where salary is based on the value (duties and responsibilities) of the job regardless if the employee filling the position is a male or female.

93. The Labour and Employment Relations Act 2013 (LERA) protects and promotes women's rights in employment, equal remuneration, maternity leave (public and private sector although the period of leave varies) and protection from workplace harassment, there is a need to regulate the private sector to ensure they comply with the universal standards.

94. Samoa was recommended to implement inclusion measures that ensure access for people with disabilities to better employment opportunities. Further to Section 37 of the LERA 2013, the Labour and Employment Relations Regulations 2015 were developed and endorsed by Cabinet to effectively implement the principle Act. The Regulations 2015 sets out privileges in addition to the entitlements set out in the principle Act such as medical costs and provision of modified facilities.

95. Public sectors working conditions and entitlements, recruitment and selection procedures, are accommodative to persons with disabilities. Similarly, employment and vocational training programs offered by the commerce and education sectors do not exclude persons with disabilities. Samoa's obligations in joining the ILO under the Decent Country Work Program include promotion of decent employment opportunities, particularly for the youth, and inclusive of persons with disabilities.

96. The Samoa Qualifications Authority Post-Secondary School Access Grant for PSET providers, is designed to improved access to education and training for women, people with disability or those vulnerable in the labour market. The Tertiary Vocational Education and Training Support program is funded by Australia, and began in 2011. Its main objective is to 'increase employability of Samoan women and men, including those with disability, by ensuring the employment readiness of TVET graduates in areas of labour demand as measured by student outcomes and levels of employer satisfaction.'

97. Several NGOs provide key services and credit schemes aimed at reducing poverty, strengthening life skills, and increasing opportunities for independent living, for persons with disabilities and with a focus on women entrepreneurs. These organisations include the South Pacific Business Development program, Women in Business, Loto Taumafai, Aoga Fiamalamalama and SENESE.

F. Prohibition of torture and cruel, degrading treatment

(Recommendations 75.32–75.35)

98. Under the Ombudsman Act 2013, the Office of the Ombudsman/NHRI has the mandate to inspect all places of detention in Samoa. The Office has carried out a number of inspections to date, resulting in reports containing recommendations which are in the process of being considered and implemented.

99. The Office of the Ombudsman conducts regular periodic reviews of the Professional Standards Unit (PSU) and as a result the timeliness of its work has improved considerably.

The newly established SIU will monitor all PSU cases, providing even greater oversight of the timeliness of investigations.

100. The Samoa Prisons and Corrections Services at this stage, is to ensure feedback is provided responsively to make sure needs are met at the national and program levels. The Office of the Ombudsman has been and still is continuously working hand in hand with the SPCS on certain and specified areas that are of much concern at this stage; as such, the need to meet universal human, safe and secure rights of prisoners whilst they are being held in custody. However, in light of the current situation, it is quite complicated to match or rather measure; at this point, we continue to put into action our very best to realize and enables us to meet on the job daily demands; the execution of the customary values and traditions good practice has been of great and appropriate help in managing prisoners.

101. Although it is very complex to provide some basic living provisions as stressed out in some of the International Standards, the Samoa Prisons Act 2013 and the Prisons Regulation 2014 are national directives which set out the strategic direction of the work of the SPCS.

102. Guiding principles under the Prisons Act 2013 comprehensively highlight that – when interpreting or applying a provision of this Act and when carrying out duty, power or function, all persons must:

(a) Ensure that prisons are managed in accordance with Samoan tradition, culture and community values, and in such a manner as will facilitate the return to ordinary life in the Samoan community of a prisoner when released from prison;

(b) Ensure that full regard is had to the recognized international standards and obligations relating to the treatment of prisoners (and in particular those stated in any international Convention to which Samoa is a Party and in the Standard Minimum Rules for the Treatment of Prisoners); and

(c) Apply to the fullest extent possible the rights and obligations of CEDAW and CRC in the administration of Samoa's prisons and the treatment of prisoners.

103. SPCS as it has been in the past and still is relying and executing the core values and traditions of the Samoan culture to manage prisoners while we continue to face the problem of staff shortage; however, slight changes have occurred since its separation from Police in terms of its recruitment and selection process, technical capacity (Trainers & Program Coordinators, Human Resource, Accounts people, Information Technology, Policy & Planning and the assistance from the NZ Corrections) has been brought on board considering the strategic direction of the Service in the years to come.

104. Prisoners' participation in the Ola Toe Fuataina Choir is on a voluntary basis. They are not forced to join. In fact SPCS has reduced the number of choir members down to a manageable level for security, safety and transportation purposes.

105. Prisoners are made aware of the complaint system process; they are to submit their complaints to the Office of the Commissioner to ensure each grievance is properly dealt with; each prisoner is called in to discuss their complaints.

106. The proposed new prison facility at Tanumaiala has a separate dwelling to accommodate pregnant women prisoners, as well as women prisoners who wish to take care of their children for up to a year. The current situation in terms of capital cannot completely cater for new facilities or extensions at the Tafaigata Prison alone.

107. Female prisoners are separated from male prisoners. The housing of a female prisoner in a male cell was a one off practice due to the unavailability of a proper locked up cell at the Female prison for the safety and security of the concerned female prisoner when the incident occurred. This was a temporary measure while work was carried out to repair

the female custody cell and at all times, the female prisoner was securely locked and well separated from male prisoners.

108. Rehabilitation, educational and vocational activities programs will be rolled out from February 2016.

109. The Development Service Unit is yet to trial a series of rehabilitation programs for prisoners this year 2016. Programs will begin in February and we also have the assistance of Government ministries and NGOs who will assist us with the implementation of these programs. Programs are designed to prepare prisoner's transition back into the community. This is to ensure that they are ready to resume a normal life and normal work as expected by the wider community following their re-introduction into the community.

110. Human Trafficking is treated seriously in Samoa, the Samoa's Crime Act 2013 create a separate offence on human trafficking with high penalties of a term of imprisonment not exceeding 14 years.

G. Right to an adequate standard of living

(Recommendations 73.29, 73.37, 74.19, 74.31)

111. Sexual reproductive health awareness programs are coordinated and managed by the health sector. A clinic at the NUS Faculty of Applied Science allows for the provision of counselling for female NUS students and provides reproductive health checks and free contraception.

112. The Ministry of Health (MoH) is committed to ensuring the health of all people regardless of ethnicity, status, disability or gender, and in keeping with its vision of a "Healthy Samoa" formulated national policies, strategies and programmes for Sexual Reproductive Health. Policies include: National Sexual and Reproductive Health Policy 2011-2016; National HIV and AIDS Policy 2011-2016; National Health Prevention Policy 2013-2018; National Infection Control Policy 2011-2016; Health Promotion Policy 2010-2015; Child and Adolescent Policy 2013-2018; National Non-communicable Disease Policy 2010-2015; Samoa's Climate adaptation Strategy for Health (CASH), and the National Food and Nutrition Policy 2013-2018.

113. The Government of Samoa has adopted and is committed to the United Nations Sustainable Development Goals in order to improve human development for now and into the future. Several of these goals have particular relevance to sexual and reproductive health but specifically SDG 3 – Good Health and Well-Being. There is also commitment to the S.A.M.O.A Pathway: Section 75 Health and Non-communicable diseases (a) (b) (f) (g); Section 76 Gender Equality and Women Empowerment (g) and, the Apia Outcome.

114. The National Sexual Reproductive Health Policy contributes to the improvement of reproductive health status of the people of Samoa, particularly women and children, by listing some of the major challenges in the area of sexual and reproductive health and identifying Key Strategic areas to address immediate and future actions. The vision of the policy is "Ensuring a Safe Sexual and Reproductive Health Environment for all Samoans".

115. Indicators for Sexual and Reproductive Health have shown an improvement over the last decade. Life expectancy for Samoans is gradually increasing with females (75.6) living longer than males (72.7). The Total Fertility Rate rose slightly between 2006 and 2011. Births to adolescent mothers showed an overall decline from 2001 to 2011. The contraceptive prevalence rate is under 25% while the 2009 Demographic Health survey indicated that there are 44% of women who have an unmet need for family planning. This indicates women (married or in a consensual union) who are fecund and sexually active but

do not use any method of contraception yet want to avoid or delay pregnancy. The high teenage fertility rates indicate there is likely high unmet need for family planning.

116. Improvements have seen with the availability of Information Packages to all pregnant mothers during their first antenatal clinic visits. These include counselling on STI symptoms, information on contraceptives for family planning, sexual relationships with partners, and protective contraceptive for unborn babies and mothers. HIV and AIDS screening is free of charge at the National Health Services.

117. Similarly, a Guideline for Traditional Birth Attendants (TBA) has been developed and implemented to regulate traditional birth attendants. The Guidelines is used to monitor and ensure Birth Attendants understand their roles and responsibilities when delivering and or offering their services to ensure the safety of mother and baby.

H. Environment, climate change and disaster risk reduction

118. Samoa is party to the Convention on Biological Diversity and has ratified and started implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, while acknowledging the role of access and benefit-sharing arising from the utilization of genetic resources in contributing to the conservation and sustainable use of biological diversity, poverty eradication and sustainable development. There is promotion of organic production of locally grown products in order to attract niche markets.

119. Samoa continues to address obstacles and pursue opportunities to mobilize financing from all sources to support national sustainable forest management policies and improve the state of biological diversity by conserving and safeguarding ecosystems, species and genetic diversity. The introduction of safeguard policies has meant that there are no trade-offs between development and environment. This has led to the increasing number of land areas designated as reserves.

120. Samoa has been pursuing effective reforestation, restoration and afforestation programs and continues to address obstacles and pursue opportunities to mobilize financing from all sources to support national sustainable forest management policies and improve the state of biological diversity by conserving and safeguarding ecosystems, species and genetic diversity. As well it continues to uphold the importance of engaging a broad range of stakeholders at the national and local levels, including national Government, the scientific community, private businesses and civil society and also including youth and persons with disabilities, and that gender equality and the effective participation of women and indigenous peoples are important for effective action on all aspects of climate change.

121. A number of programs funded by a number of climate financing facilities, have been designed to build resilience to the impacts of climate change and improve adaptive capacity through the design and implementation of climate change adaptation measures appropriate to their respective vulnerabilities and economic, environmental and social situations; as well as raise awareness of climate change risks including through public dialogues with local communities to increase human and environmental resilience to the longer-term impacts of climate change.

122. Samoa is able to access technical assistance and financing for early warning systems, disaster risk reduction, and post–disaster response and post-disaster recovery, risk assessment and data, land use and planning, observation equipment, disaster preparedness and recovery education programs, including inter alia under the Global Framework for Climate Services, and disaster risk management. Through the NDMO, focus is on strengthening and supporting contingency planning and provisions for disaster preparedness

and response, emergency relief and population evacuation, in particular for people in vulnerable situations, including inter alia women and girls, displaced persons, children, older persons and people with disabilities.

123. Similarly the implementation of the Sendai Framework for disaster risk reduction post 2015 builds on previous achievements, prioritizes prevention and mitigation, and incorporates implementation frameworks to address implementation gaps if and when they exist.

I. Treaty ratification and cooperation with UN human rights mechanisms

(Recommendations 73.1–73.12, 73.26–73.28, 75.8–75.12)

124. The Government has made it an obligation to ensure that it ratifies all core human rights conventions to safeguard the rights of its citizens and it has therefore accepted the corresponding recommendations.

125. Samoa is considering ratifying CRPD. The Attorney General's Office has provided advice for Samoa to ratify following a legislative compliance review of CRPD. Samoa is working towards finalising the legislative compliance review so that Government is able to establish legal frameworks that will support full implementation of the Convention. Following this, the Convention will be ratified. Lack of technical expertise in this area is a problem although other Ministries and NGOs provided technical support towards completing the compliance. Samoa is looking at legal options towards protecting the rights of persons with disabilities whether in the form of a model law or piecemeal amendments.

126. Since signing the CRPD, Samoa is currently undertaking a cost benefit analysis of CRPD and a legislative compliance review of CRPD. MWCSD is the focal point for CRPD. The challenge for Samoa is ensuring the accessibility in all public places, infrastructure (disability friendly facilities at the correctional facilities) and representation in public forums, steering committees, delegations to overseas meetings.

127. Efforts to sensitise the public and promote human rights for persons with disabilities, have existed since the 70s, through training programs and literature produced by the civil society. In 2001 Nuanua o le Alofa was established as the official DPO and NGO focal point. The national disability task force was set up in 2008. Advocacy continues for the development of a disability legislation, the realisation of accessible buildings, facilities, programs and transport systems, and the inclusion / participation of persons with disability in social environments that are devoid of stigma and discrimination.

128. Mainstreaming of disability rights has been recognised as a national planning priority since 2008 (Strategy for the Development of Samoa). Since 2015 an annual budget allocation has been set aside by Government for the commemoration of International Disability Week.

129. The establishment of the National Disability Taskforce in 2008 is a reflection of Government's commitment to incorporating disability issues into national and sector plans. The aim of the Taskforce is to draw the discussion in Samoa towards recognising that people with disabilities should be empowered, their rights recognised and that they should be included in the mainstream of civil, political, social, cultural and economic life.

130. In 2008 Cabinet directed the Taskforce to conduct: a) a CRPD legislation compliance review and b) a CRPD costed plan analysis, as a means of informing steps towards future CRPD ratification. The Disability Taskforce currently serves as a subsector within the overall Community Sector, and reports to the Community Sector Steering Committee. It is responsible for monitoring the Samoa Disability Program, an Australia funded project which has been housed within the MWCSD since 2013. The Samoa

Disability Program is designed to facilitate Samoa's ratification of the CRPD through the introduction of activities and initiatives that address vulnerabilities, lack of economic opportunities and limited access to such opportunities.

131. A review of the initial policy 2011–2015 was conducted in December 2014. The review found that policy mainstreaming has improved over the past 5 years, with disability sensitive frameworks having been developed within the education, health and communications sectors, and disaster management services. Successful inroads have been made in awareness capacity, sports, intervention services, and national statistics, enabled by donor commitment and an evolved partnership between the Government and civil society. However, continued vulnerability of women with disabilities, lack of economic opportunities and accessibility challenges, continue to hinder progress. Rural inclusive education and early childhood education are areas that are particularly affected by limited resources and facilities. Key factors to be used as stepping stones include a stronger mainstream approach, responsive laws, collective ownership and coordination, capacity building, and emphasis on community impact. A draft policy for the 2016–2020 period is currently being finalized.

132. Enforcement of accessibility is difficult not only because of the lack of a sound legislative framework, but because of the haphazard and fragmented manner in which accessibility policies / guidelines have been drawn up. The MWTI began reviewing the 1992 National Building Code in 2013, in an attempt to merge the objectives and outcomes of the building components within various existing documents that cover building accessibility, such as the Samoa Water Act, the PUMA Accessibility Guideline, and so forth, to encompass all building concerns within a uniform structure. All public buildings at least, have enforced provisions to facilitate access for people with disability.

133. The communications sector currently has a strong policy base around disability access to ICT, however monitoring and review is required.

134. The recent completion of a CRPD legislative compliance review spells promise for the drafting of disability legislation around access in the near future. Such a legislation will help realise and enforce access related measures in several existing frameworks (Public Parking Policy, imposition of appropriate fines for non-compliance; Transport Sector Plan, safety and security in all ports and airports), and help establish guidelines for areas where such measures do not exist (disability ID card schemes).

135. In terms of recommendation for Samoa to ratify the two current Optional Protocols thereto, on the involvement of children in armed conflict (2000) and on the sale of children, child prostitution and child pornography (2000) to the CRC, the protocols were reviewed by the Attorney General. The Office of the Attorney General has advised the Ministry of Foreign Affairs and Trade in its letter dated 24 September 2013 that Samoa can sign the Optional Protocol on the Convention of the Rights on the Child (OPCRC). The Attorney General's Office advised that since Samoa does not have any armed forces, Samoa complies with this obligation under the Convention.

136. In terms of periodic human rights reporting in particular the UPR, CEDAW, and CRC, Samoa where necessary, has continued to utilize both technical and financial assistance from UNICEF Pacific, Pacific Island Forum Secretariat, Secretariat of the Pacific Community, UN Women and support from the Government of Australia through the Samoa Shaping Development For Women (Pacific Women Shaping Development Regional Program). This assistance from the development and donor partners has been for both State and Shadow reports including support for public consultations.

137. Regular engagement with OHCHR in relation to treaty body reporting has occurred over the UPR reporting period. In 2015 OHCHR provided UPR training to both

Government and Civil Society and the NHRI staff travelled to Suva in January 2016 to receive training on treaty body reporting.

138. Additionally, OHCHR has recruited a UPR coordinator, based in the Office of the Ombudsman, to support the UPR process and treaty body reporting. With the assistance of the UPR coordinator it is planned to establish a National Mechanism for Reporting and Follow-Up (NMRF) to coordinate all treaty body reporting and recommendation implementation. The intention is to establish the NMRF by the end of 2016.

139. Samoa is committed to the creation of a common core document and one of the first tasks of the National Mechanism for Reporting and Follow Up will be to produce this document, with the assistance of the OHCHR UPR Coordinator.

V. Challenges and constraints

140. Challenges include lack of resources and sometimes technical assistance in progressing some of the work that have been done so far especially with the legislative reforms and implementation of human rights.

141. There is also the challenge of competing priorities of not only Government and civil societies on what to prioritise and what not to prioritise with the many issues, programs and so forth that needs the immediate attention of not only Government but also civil societies. Furthermore, the issue of lack of awareness and understanding on certain human rights aspect and the limited financial resources to assist with implementation of laws and programs aimed at enhancing the status of human rights in Samoa.

142. There is still some way to go to ensure that there is deep understanding of what 'a rights based' approach is and what human rights are; how and when they can be applied. The rights-based approach deals not just with outcomes but also with how those outcomes are achieved. It recognizes that people are actors in their own development, rather than passive recipients of services. Informing, educating and empowering them are essential. Their participation is central, not only to ensure they have ownership over the programme, but also to sustain progress. A rights-based approach develops the capacity of duty-bearers to meet their obligations and encourages rights holders to claim their rights. Governments have three levels of obligation: to respect, protect and fulfil every right.

143. Increasingly through public debate, court cases where these principles are tested, advocacy programs for the human rights treaties Samoa is already party to, and public discussions on international reporting obligations of the country such as through this UPR Report, public awareness is growing.

VI. Key national priorities, initiatives and commitments

144. Samoa will continue to undertake reviews of its laws and policies to address the changing needs of its people and environment. These include gender equality, the enhancement of the rights of women and children, economic empowerment, law and order and access to justice. The Government is committed to working with development partners in ensuring that gender mainstreaming is filtered across the public service with identifiable best practices.

145. Priorities in the implementation of the national development policy include the SDS review to include SDGs, the creation of an environment conducive for economic growth and improved service delivery to the most marginalised communities.

146. Samoa recognises the need to efficiently monitor and evaluate human rights reporting (UPR and treaty body reporting) and improve inter-ministerial co-ordination of the process. Samoa is committed to the establishment of a NMRF housed in MFAT that will be responsible for the monitoring and evaluation of all human rights reporting. This will enable the submission of human rights reporting obligations through a consultative process in a timely manner.

147. Greater collaboration with the Parliament Foreign Relations Committee is envisaged so that human rights commitments are brought to the attention of legislators for their consideration and action.

VII. Capacity-building and requests for technical support

148. The Government identifies the need to develop a broad program on human rights which includes training and capacity-building for the public sector. Pivotal to human rights education is the need for regular, accurate statistics, monitoring and evaluation.

149. Samoa also recognises that there are new and emerging issues that relate to the climate change, environment/private sector and human rights which need to be addressed by strengthening the laws/policies and enforcement framework. Continued financial and technical assistance is requested to support national endeavours by aligning donor assistance to national priorities until such time that the country is technically capable of meeting its obligations.

VIII. Conclusion

150. Samoa has come a long way since its first UPR in 2011 and over the years there have been a number of not only legal reforms but also social reforms in terms of addressing recommendations provided during our first UPR. In order to closely monitor the 2nd cycle the Government is committed to submitting mid-term review reports to the Human Rights Council. Samoa also welcomes offers of technical assistance in key areas such as domestic violence, prisons, and strengthening the NHRI to name a few.

151. Samoa has much to be proud of in terms of goals and milestones achieved since its first UPR in 2011. The establishment of the new National Human Rights Institution, the number of legislative reforms completed to address recommendations made during the first UPR and the signing of the CRPD.

152. This is a reflection of Samoa's commitment to the UPR process to ensure that the different aspects of human rights are reflected in all areas spanning the Samoan Government.

United Nations A/HRC/WG.6/25/WSM/2

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Samoa

The present report is a compilation of the information contained in reports of the treaty bodies and special procedures, including observations and comments by the State concerned, in reports of the United Nations High Commissioner for Human Rights, and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full texts, please refer to the documents referenced. The report does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review, and developments during that period.

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Please recycle

I. Background and framework

A. Scope of international obligations[1]

1. International human rights treaties[2]

	Status during previous cycle	*Action after review*	*Not ratified/not accepted*
Ratification, accession or succession	ICCPR (2008)	CRPD (signature, 2014)	ICERD
	CEDAW (1992)	ICPPED (2012)	ICESCR
	CRC (1994)		CAT
	ICPPED (signature, 2007)		OP-CAT
			OP-CRC-AC
			OP-CRC-SC
			ICCPR-OP 2
			ICRMW
			CRPD (signature, 2014)
Reservations and/or declarations	ICCPR (declaration, arts. 8 (3) and 10 (2) and (3), 2008)		
	CRC (reservation, art. 28 (1) (a), 1994)		
Complaints procedures, inquiries and urgent action[3]		ICPPED, art. 33 (2012)	ICERD
			OP-ICESCR
			ICCPR, art. 41
			ICCPR-OP 1
			OP-CEDAW
			CAT
			OP-CRC-IC
			ICRMW
			OP-CRPD
			ICPPED, arts. 31 and 32

2. Other main relevant international instruments

Status during previous cycle	*Action after review*	*Not ratified*
Ratification, accession or succession		Convention on the Prevention and Punishment of the Crime of Genocide
	Rome Statute of the International Criminal Court	
		Palermo Protocol[4]
	Conventions on refugees and stateless persons[5]	1961 Convention on the Reduction of Statelessness, 1954 Convention relating to the Status of Stateless Persons
	Geneva Conventions of 12 August 1949 and Additional Protocols I and II[6]	Additional Protocol III to the 1949 Geneva Conventions[7]
	ILO fundamental conventions[8]	
		ILO Conventions Nos. 169 and 189[9]
		UNESCO Convention against Discrimination in Education

1. In 2012, the Committee on the Elimination of Discrimination against Women encouraged Samoa to ratify ICESCR, ICERD, CAT, ICRMW, ICPPED and CRPD.[10] The Committee called upon Samoa to ratify OP-CEDAW,[11] and urged it to ratify the International Labour Organization (ILO) Maternity Protection Convention (Revised), 1952 (No. 103) and the ILO Workers with Family Responsibilities Convention, 1981 (No. 156), and to adopt provisions to extend maternity leave in both the public and private sectors to 14 weeks.[12] The Committee also called upon Samoa to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and other relevant international instruments.[13]

2. The United Nations country team recommended that Samoa ratify and accede to the remaining five core international human rights treaties—ICESCR, ICERD, CAT, CRPD and ICRMW—and the optional protocols to international treaties, and to implement them through domestic application.[14]

3. The country team noted that Samoa had signed the Convention on the Rights of Persons with Disabilities in September 2014, and that the Government was in the process of moving towards ratification. The country team welcomed that development and encouraged the Government of Samoa to continue progress towards ratifying the Convention in line with recommendations accepted during its first universal periodic review in 2011.[15]

4. The Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that Samoa pursue accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.[16]

5. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that Samoa be strongly encouraged to ratify the Convention against Discrimination in Education.[17]

B. Constitutional and legislative framework

6. The country team indicated that, to address the low representation of women in Parliament, a constitutional amendment introducing a 10 per cent quota for women representatives in the national Legislative Assembly had been passed by Parliament in 2013.

7. The country team noted that the new Crimes Act 2013, which repealed the Crimes Ordinance of 1961, outlined penalties for sexual offences. Sexual offences listed under the Act included sexual violation, sexual assault and trafficking.

8. The country team also noted that in 2014 Samoa had established a Family Court through the Family Court Act 2014. The Family Court was a division of the District Court, and its purpose was to promote alternative forms of dispute resolution and conciliation. The Family Safety Act 2013 provided for an extensive definition of domestic violence. Important elements of the Act were the ability of a child to apply for a protection order without the consent of a parent or legal guardian, the duties of the police and the "no drop policy", under which a report of domestic violence that involved any form of physical or sexual abuse must be pursued with intent to prosecute. The Family Court, which since its establishment had tried over 800 cases, was the first dedicated family court in the Pacific region outside of Australia, New Zealand and Fiji. The Family Court dealt with criminal cases related to family violence, and sought to hold defendants accountable for their actions and to compel them to address their violence in an appropriate way.

9. The country team encouraged advocacy on the Samoa Child Care and Protection Bill 2013, ownership by key partner agencies and passage of the bill in Parliament.[18] The ILO Committee of Experts on the Application of Conventions and Recommendations expressed the hope that the bill would be adopted in the near future.[19]

10. UNHCR stated that Samoa had not yet enacted its international refugee obligations into domestic law. Development of a draft refugee status determination bill had previously been initiated and remained to be adopted.[20]

C. Institutional and human rights infrastructure and policy measures

11. The Committee on the Elimination of Discrimination against Women urged Samoa to establish, within a clear time frame, an independent national human rights institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).[21]

12. The Committee encouraged Samoa to adopt temporary special measures, in accordance with article 4 (1) of the Convention, as interpreted in general recommendation No. 25 of the Committee, in all areas covered by the Convention in which women were underrepresented or disadvantaged.[22]

13. The country team noted that in May 2013, the Parliament of Samoa had passed the Ombudsman (*Komesina O Sulufaiga*) Act 2013, which broadened the Ombudsman's

functions with regard to promoting and protecting human rights. While the Ombudsman/national human rights institution of Samoa was yet to be accredited by the International Coordinating Committee on National Human Rights Institutions, the legislation underpinning the mandate of the organization was based on the spirit of the Paris Principles, and the institution was seen as a model for Pacific region countries. The country team encouraged Samoa to continue to support the work of the Ombudsman/national human rights institution and to ensure that the Ombudsman received adequate funding and resources to effectively carry out its mandate.[23]

14. The country team stated that, in order to improve the tracking of cases and identify obstacles in accessing appropriate legal outcomes, Samoa had implemented a monitoring and evaluation system for the Family Violence Court and Family Court, with support from the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women). The Court was in need of support mechanisms to provide counseling and guidance to families.[24]

Status of national human rights institutions[25]

National human rights institution	*Status during previous cycle*	*Status during present cycle*[26]
Ombudsman/national human rights institution		Accreditation will be considered by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights Sub-Committee on Accreditation at its session to be held from 9 to 13 May 2016[27]

15. In 2014, the Office of the United Nations High Commissioner for Human Rights (OHCHR), in collaboration with the Asia-Pacific Forum of National Human Rights Institutions and the United Nations Development Programme, conducted a capacity assessment of the Office of the Ombudsman in Samoa. Subsequently, OHCHR provided technical support to the development by the Ombudsman of a human rights report, which was published and disseminated nationally.[28]

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

1. Reporting status

Treaty body	*Concluding observations included in previous review*	*Latest report submitted since previous review*	*Latest concluding observations*	*Reporting status*
Human Rights Committee	-	-	-	Initial report overdue since 2009
Committee on the Elimination of Discrimination against Women	January 2005	-	July 2012	Sixth report due in 2016

Treaty body	*Concluding observations included in previous review*	*Latest report submitted since previous review*	*Latest concluding observations*	*Reporting status*
Committee on the Rights of the Child	September 2006	2014 (initially due in 2011)	-	Second to fourth reports pending consideration in 2016
Committee on Enforced Disappearances	-	-	-	Initial report overdue since 2014

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

Treaty body	*Due in*	*Subject matter*	*Submitted in*
Committee on the Elimination of Discrimination against Women	2014	Gender equality and education of women and girls[29]	2015[30]

B. Cooperation with special procedures[31]

	Status during previous cycle	*Current status*
Standing invitation	No	Yes
Visits undertaken		
Visits agreed to in principle		
Visits requested		
Responses to letters of allegation and urgent appeals	None	
Follow-up reports and missions		

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

16. In August 2015, OHCHR, the Pacific Islands Forum Secretariat and the Secretariat of the Pacific Community/Regional Rights Resource Team provided technical assistance to the Government of Samoa and civil society in preparation for the country's second universal periodic review.[32]

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

17. The Committee on the Elimination of Discrimination against Women was concerned that the Convention had still not been fully domesticated as part of national law, and that Samoa had yet to adopt and incorporate into the Constitution or other relevant legislation a definition of discrimination against women, including direct and indirect discrimination, in line with article 1 of the Convention.[33] The Committee urged Samoa to accord high priority to the process of fully incorporating the Convention into its national legal system, and to include in the Constitution or in other appropriate national legislation a definition of discrimination against women in line with article 1 of the Convention.[34]

18. The Committee also urged Samoa to put in place, without delay, a comprehensive strategy to modify or eliminate patriarchal attitudes and stereotypes that discriminated against women; to expand public education programmes, in particular in rural areas; to use innovative measures that targeted the media to strengthen understanding of the equality of women and men; and to use the education system to enhance a positive and non-stereotypical portrayal of women.[35]

19. The country team encouraged the Government to further support substantive interventions to reduce violence against women and girls and on the grounds of sexual orientation and gender identity, through legislation, inter-agency collaboration and response systems; and to support the availability of free legal assistance and formal alternatives to dispute resolution mechanisms for family matters.[36]

20. The country team stated that gender equality was undermined by women's poor access to employment, property, financial credit and bank loans. In 2012, Samoa and six other Pacific region countries had received low global rankings on the women's economic opportunity index, which looked at women's access to property and finance. The country team urged the Government to review and reform all policies, legislation and practices that restricted women's equal rights to employment, property and finance as an important step towards improving women's economic empowerment and achieving gender equality.[37]

21. While noting that Samoa was reviewing the Lands and Titles Act to amend existing discriminatory provisions, the Committee on the Elimination of Discrimination against Women was concerned at the prevalence of discriminatory customs and traditional practices that prevented rural women from inheriting or acquiring ownership of land and other property. It called upon Samoa to eliminate all forms of discrimination with regard to ownership, co-sharing and inheritance of land, and to address negative customs and traditional practices.[38]

22. The country team indicated that Samoa had signed the joint statement on ending acts of violence and related human rights violations based on sexual orientation and gender identity at the session of the Human Rights Council held in March 2011. However, same-sex relations and activity between consenting adults were still criminalized and there had been no changes in that regard. The country team urged the Government of Samoa to end discrimination on the grounds of sexual orientation, including through decriminalizing sexual activity between consenting adults of the same sex.[39]

B. Right to life, liberty and security of person

23. The country team stated, that although legislation was in place and court structures had been established to address violence against women, survivors of violence still faced difficulties accessing the formal justice system in Samoa. One of those barriers was the perception of and attitude towards domestic violence. Despite education and training, many police officers and prosecutors continued to believe that violence against women, and particularly domestic violence, did not constitute a criminal offence. A number of institutional measures had been adopted to address barriers and difficulties faced by victims with regard to accessing the formal justice system. Those measures included mandatory arrest and prosecution, as well as pro-arrest and pro-prosecution policies.[40]

24. The Committee on the Elimination of Discrimination against Women expressed its concern at the high prevalence of violence, in particular domestic and sexual violence, against women and at the lack of information and statistical data on its nature, extent and causes. The Committee was deeply concerned that violence against women appeared to be socially legitimized and accompanied by a culture of silence and impunity and that cases of violence were therefore underreported. The Committee noted with concern that Samoa had yet to establish a shelter for women victims of violence.[41]

25. The Committee urged Samoa to put in place comprehensive measures to prevent and address violence against women and girls, ensuring that women and girls who were victims of violence had access to immediate means of redress and protection and that perpetrators were prosecuted; to provide mandatory training for judges and prosecutors on the strict application of legal provisions dealing with violence against women and to train police officers on procedures for dealing with women victims of violence; to encourage women to report incidents of domestic and sexual violence by destigmatizing victims and raising awareness about the criminal nature of such acts; to provide adequate assistance and protection to women victims of violence by establishing shelters, especially in rural areas, and enhancing cooperation with non-governmental organizations providing shelter and rehabilitation to victims; and to collect statistical data on domestic and sexual violence.[42]

26. The Committee was concerned about the lack of efforts to prevent the exploitation of prostitution and the fact that Samoa had ratified none of the international instruments in the area of combating trafficking and exploitation of prostitution.[43]

27. The Committee called upon the State to implement article 6 of the Convention and to include in its subsequent report information and data on the prevalence of trafficking and the exploitation of prostitution, address the root causes of trafficking and prostitution, including poverty, and strive to ensure the recovery and social integration of victims.[44]

28. The Committee of Experts on the Application of Conventions and Recommendations noted with satisfaction the adoption of the Crimes Act 2013, which contained in its section 155 a specific provision prohibiting the sale and trafficking of children.[45] The Committee requested the Government to continue to provide information on the application in practice of section 155, including the number of investigations and prosecutions, and any measures taken with regard to the identification of victims of trafficking.[46]

29. UNESCO recommended that Samoa be encouraged to prohibit corporal punishment in all settings.[47]

30. The Committee of Experts on the Application of Conventions and Recommendations requested the Government to take the necessary measures to identify and protect children engaged in street vending from the worst forms of child labour, and to provide information on the number of child street vendors who had been removed from the worst forms of child labour by the police and school attendance officers.[48] The Committee

also requested the Government to indicate the measures taken or envisaged with regard to adopting regulations determining the types of hazardous work prohibited for children under 18 years pursuant to the Labour and Employment Act 2013.[49] The country team noted that, in April 2015, Samoa had established a working group on child labour, comprising a number of governmental and non-governmental partners, to plan and coordinate advocacy on child labour.[50]

C. Administration of justice, including impunity, and the rule of law

31. The country team stated that Samoa was the first country in the Pacific region, with its Young Offenders Act 2007, to incorporate traditions and culture into its judicial response. In that context, the Ministry of Justice and Courts Administration had established a programme for young offenders to be placed in chosen villages, usually with the family of the mayor or pastor. The young offender's sentence was served under the supervision of the family and village. The programme had shown a high success rate of 90 per cent, with only 10 per cent of programme participants re-offending.[51]

D. Freedom of religion or belief, expression, association and peaceful assembly, and the right to participate in public and political life

32. The country team noted that in early 2015 the Parliament had adopted the Media Council Act 2014. The Council would be responsible for dealing with complaints from the public against the media. The country team encouraged the Government to support local media industries in their effort to establish media ethics and to apply those ethics. The country team further encouraged those media industries to become more influential in convincing the Government to embrace freedom of the press.[52]

33. UNESCO recommended that Samoa be encouraged to introduce a freedom of information law that was in accordance with international standards, and to further strengthen self-regulatory mechanisms for the media.[53]

34. The Committee of Experts on the Application of Conventions and Recommendations requested the Government to provide information on the application in practice of sections 41-43 of the Crimes Act 2013, which punished the intention of undermining the authority of the Government, unlawful assembly and disorderly assembly, including by providing information on any arrests, prosecutions, convictions and penalties imposed and copies of court decisions illustrating the scope of the application of those sections of the Act.[54]

35. The country team stated that the representation of women in Parliament and their political participation remained a challenge. In Samoa, only *matai* (a chief title) were allowed to run for elected office. The number of women holding *matai* titles was low, and there were cases of villages refusing to give women such titles. That constituted a major barrier to increasing the numbers of women running in elections.[55]

E. Right to work and to just and favourable conditions of work

36. The country team indicated that Samoa had taken important steps to bring its labour laws into line with international standards, including standards promoted by the Committee on the Elimination of Discrimination against Women and the core ILO Conventions. Law reform, in particular the enactment of the Labour and Employment Relations Act 2013,[56] which had repealed the Labour and Employment Act 1972, included maternity and paternity leave entitlements and other fundamental employment rights like equal pay,

prohibitions on forced labour and employment discrimination (based on gender, ethnicity and sexual orientation), and the right to collective bargaining and freedom of association.[57] The country team urged Samoa to make every effort to ensure the effective implementation of the important rights it had now legislated under the Labour and Employment Relations Act 2013.[58]

37. The Committee on the Elimination of Discrimination against Women was concerned at continuing vertical and horizontal occupational segregation and the persistent wage gap between women and men. The Committee was also concerned that, as acknowledged by the State party, formal employment opportunities were limited and women were concentrated in the informal sector, where there were no benefits such as social security. The Committee was further concerned that maternity leave in both the public and private sectors was not in line with international standards.[59]

38. The Committee urged Samoa to accord high priority to the adoption of the Labour and Relations Bill within a specific time frame; to establish a regulatory framework for the informal sector with a view to providing women in that sector with access to social security and other benefits; and to take temporary special measures to eliminate both vertical and horizontal occupational segregation so as to narrow and close the gap between women and men, in accordance with ILO conventions 103 and 156.[60]

F. Right to social security and to an adequate standard of living

39. The Committee on the Elimination of Discrimination against Women expressed its concern at the disadvantaged position of women in rural areas. It called upon Samoa to ensure that rural women enjoyed access to health-care services, education, clean water, sanitation services and income-generating projects.[61]

40. The country team noted that the 2012-2016 Strategy for the Development of Samoa focused on boosting productivity for sustainable development through a number of key areas, for example, private sector investment, export capacity, investment in social sectors and infrastructure. Samoa was food secure in that it could afford to import food to make up for any shortfall in domestic production.[62]

G. Right to health

41. The country team indicated that Samoa was on track to achieve, or had already achieved, Millennium Development Goals 4, 5 and 6, which were the internationally agreed targets encompassing infant and under-five mortality; maternal mortality and skilled attendance at birth; and HIV prevalence and tuberculosis treatment. There had been an increase in life expectancy and a decrease in child mortality in Samoa. Between 1991 and 2011, life expectancy at birth had increased from 64 years to 76 years.[63] The Government of Samoa had enshrined the right to health in the Strategy for the Development of Samoa 2012-2016.[64]

42. The Committee on the Elimination of Discrimination against Women welcomed the adoption of the national HIV/AIDS policy for 2011-2016.[65] It was concerned about the high rate of teenage pregnancy and that existing sex education programmes were insufficient. The Committee urged Samoa to widely promote education on sexual and reproductive health and rights, targeting adolescent girls and boys and paying special attention to early pregnancy and control of sexually transmitted infections, including HIV/AIDS.[66]

43. The country team encouraged the Government to safeguard reproductive rights, and recommended integrating quality sexual and reproductive health and family planning

services into all primary health-care services.[67] The Committee on the Elimination of Discrimination against Women urged Samoa to review the current laws on abortion to remove punitive provisions imposed on women who had undergone abortions and provide access to high-quality services for the management of complications arising from unsafe abortions.[68]

44. In 2015, the Committee on the Rights of the Child requested information on the main achievements in adolescent health of the national youth policy for 2011-2015 and the national health policy for 2012-2017, namely regarding suicide, substance abuse, teenage pregnancy, sexually transmitted infections and discrimination against pregnant girls.[69]

45. While welcoming the adoption of the health sector plan for 2008-2018, the Committee on the Elimination of Discrimination against Women was concerned about the status of women's health, in particular that of women in rural areas who experienced difficulties in gaining access to affordable and appropriate health care in a timely manner. It urged Samoa to improve women's access to health care and health-related services.[70]

H. Right to education

46. The Committee on the Elimination of Discrimination against Women was concerned at the high dropout rates between the primary and secondary levels (46 per cent) and the lack of information on tertiary enrolment; at the high number of girls who were victims of sexual abuse and harassment in schools by teachers; at the high dropout rate and the low retention and completion rates for girls, especially at the secondary and tertiary levels, owing to teenage pregnancy, discriminatory traditional and cultural practices and poverty, especially in rural areas; and at traditional views of both students and teachers, which oriented female students into areas of study perceived as appropriate to their social roles and participation in public life.[71]

47. The Committee urged the State party to address barriers to the education of women and girls, such as negative cultural attitudes and excessive domestic duties, to take steps to reduce and prevent dropouts among girls and to strengthen the implementation of re-entry policies enabling girls who drop out to return to school; to provide safe educational environments free from discrimination and violence and to institute measures to protect girls from sexual harassment and violence in schools, in particular in rural areas; to strengthen awareness-raising and training for school officials and students, and for children through the media, and to establish reporting and accountability mechanisms to ensure that perpetrators of sexual abuse and harassment in schools are prosecuted and punished.[72]

48. The Committee of Experts on the Application of Conventions and Recommendations expressed the firm hope that the Government would take the necessary measures, without delay, to ensure that the age of completion of compulsory schooling was raised to 15 years, which was the minimum age for admission to employment for Samoa.[73]

49. UNESCO stated that Samoa had adopted policies to improve the focus on access to education, quality of education for all and inclusive education through the corporate plan for July 2012-June 2015 based on the development of the Ministry of Education, Sports and Culture strategic policies and plan for 2006-2015, along with the strategy for the development of Samoa for 2012-2016.[74] UNESCO indicated that Samoa could be encouraged to continue implementing strategic plans focusing on access to education for all and free primary education and integrate non-discriminatory principles in order to enhance the quality of education at all levels.[75]

I. Cultural rights

50. UNESCO recommended that Samoa be encouraged to implement the relevant provisions promoting access to and participation in cultural heritage and creative expressions and, as such, were conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights.[76]

51. The country team encouraged Samoa to finalize its cultural policy for official launch and to continue to engage in heritage safeguarding.[77]

J. Persons with disabilities

52. UNESCO stated that steps had been taken to promote special education for persons with disabilities, with special attention paid to girls and women with disabilities (strategic policies and plan for 2006-2015).[78]

53. The country team stated that, at present, there were limited services, employment, facilities and access for persons with disabilities in Samoa. There were no Government-operated facilities to look after young people or children with disabilities; services for children with disabilities were provided by two non-governmental organizations.[79]

54. The Committee on the Rights of the Child requested information on the measures taken to mainstream the participation of children with disabilities into the formal education system and on the main results achieved regarding children's rights by the national policy for persons with disabilities and the implementation plan for 2009-2012.[80]

K. Migrants, refugees and asylum seekers

55. UNHCR stated that access to sustainable resources for reception that could facilitate local integration was an area in need of improvement and continuing development. There was limited information available on arrivals of persons who might be in need of international protection.[81]

56. UNHCR recommended that Samoa pursue its commitment to promote and protect the rights of refugees and asylum seekers by continuing political and policy discussions to elaborate a national legal and policy framework that provided protection to refugees and asylum seekers; develop national mechanisms that addressed their needs and ensured appropriate engagement of relevant international organizations; and participate in capacity-building and training opportunities on refugee protection at the national, regional and international levels.[82]

L. Right to development, and environmental issues

57. The country team stated that there were considerable challenges that Samoa faced in addressing the effects of climate change on the country. Samoa received considerable aid for climate change adaptation; however, there was limited coordination between the institutions responsible for managing those resources. Additionally, there were gaps in information on climate change and limited integrated planning. That included the lack of a national system to monitor and evaluate the long-term effects of climate change and the success of adaptation and disaster risk management interventions. The country team urged the Government to utilize a rights-based approach in climate change mitigation strategies.[83]

58. While bearing in mind the vulnerability of Samoa to natural disasters, the Committee on the Rights of the Child requested information on how child protection issues were taken into consideration and addressed by the national disaster management plan for 2011-2015 and the national action plan for disaster risk management for 2011-2016.[84]

Notes

[1] Unless indicated otherwise, the status of ratification of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/. Please also refer to the United Nations compilation on Samoa from the previous cycle (A/HRC/WG.6/11/WSM/2).

[2] The following abbreviations have been used in the present document.

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance

[3] Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and ICPPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; ICPPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; ICPPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: ICPPED, art. 30.

[4] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

[5] 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons, and 1961 Convention on the Reduction of Statelessness.

[6] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts

(Protocol II). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/IHL.

[7] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/IHL.

[8] International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182).

[9] ILO, Indigenous and Tribal Peoples Convention, 1989 (No. 169); and Domestic Workers Convention, 2011 (No. 189).

[10] See CEDAW/C/WSM/CO/4-5, para. 47.

[11] Ibid., para. 42.

[12] Ibid., para. 31.

[13] Ibid., para. 25.

[14] See country team submission for the universal periodic review of Samoa, sect. I.A.

[15] Ibid., para. 59. See also A/HRC/18/14, recommendations 73.7-73.8 and 75.13-75.17.

[16] Office of the United Nations High Commissioner for Refugees (UNHCR) submission for the universal periodic review of Samoa, p. 3. See also A/HRC/18/14, recommendation 75.20.

[17] See United Nations Educational, Scientific and Cultural Organization (UNESCO) submission for the universal periodic review of Samoa, para. 44.

[18] See country team submission, para. 23.

[19] ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning ILO Worst Forms of Child Labour Convention, 1999 (No. 182) — Samoa, adopted in 2013, published 103rd ILC session (2014).

[20] UNHCR submission, p. 1.

[21] See CEDAW/C/WSM/CO/4-5, para. 17.

[22] Ibid., para. 19.

[23] See country team submission, paras. 12-13. See also A/HRC/18/14, recommendations 73.15-73.24, 74.7, 75.22 and 75.24 in A/HRC/18/14.

[24] See country team submission, para. 11. See also A/HRC/18/14, recommendation 74.25 in A/HRC/18/14.

[25] According to article 5 of the rules of procedure of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights Sub-Committee on Accreditation, the classifications for accreditation used by the Sub-Committee are: A: voting member (fully in compliance with each of the Paris Principles); B: non-voting member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); and C: no status (not in compliance with the Paris Principles).

[26] For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, see http://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart.pdf.

[27] See http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/nextsession.aspx.

[28] See A/70/347, para. 41.

[29] See CEDAW/C/WSM/CO/4-5, para. 49.

[30] CEDAW/C/WSM/CO/4-5/Add.1.

[31] For the titles of special procedure mandate holders, see www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx.

[32] See country team submission, para. 14. See also A/HRC/18/14, recommendation 73.26 in A/HRC/18/14.

[33] See CEDAW/C/WSM/CO/4-5, para. 12.

[34] Ibid., para. 13.

[35] Ibid., para. 21.

[36] See country team submission, para. 11.

[37] Ibid., para. 20.

[38] See CEDAW/C/WSM/CO/4-5, paras. 34-35.
[39] See country team submission, para. 22. See also A/HRC/18/14, recommendations 75.38-75.41.
[40] See country team submission, paras. 28 and 30.
[41] See CEDAW/C/WSM/CO/4-5, para. 22.
[42] Ibid., para. 23.
[43] Ibid., para. 24.
[44] Ibid., para. 25.
[45] ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning ILO Worst Forms of Child Labour Convention, 1999 (No. 182) — Samoa, adopted 2013, published 103rd ILC session (2014).
[46] ILO Committee of Experts on the Application of Conventions and Recommendations, direct request concerning ILO Forced Labour Convention, 1930 (No. 29) — Samoa, adopted in 2013, published 103rd ILC session (2014).
[47] See UNESCO submission, para. 44.
[48] ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning ILO Worst Forms of child Labour Convention, 1999 (No. 182) — Samoa, adopted in 2013, published 103rd ILC session (2014).
[49] ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning ILO Minimum Age Convention, 1973 (No.138) — Samoa, adopted in 2013, published 103rd ILC session (2014).
[50] See country team submission, para. 45. See also A/HRC/18/14, recommendation 74.20.
[51] See country team submission, para. 26 and 28.
[52] Ibid., para. 31.
[53] See UNESCO submission, paras. 47-48.
[54] ILO Committee of Experts on the Application of Conventions and Recommendations, direct request concerning ILO Abolition of Forced Labour Convention, 1957 (No. 105), adopted in 2013, published 103rd ILC session (2014).
[55] See country team submission, para. 36.
[56] Ibid., para. 39. See also A/HRC/18/14, recommendation 74.30.
[57] See country team submission, para. 39.
[58] Ibid., para. 40.
[59] See CEDAW/C/WSM/CO/4-5, para. 30.
[60] Ibid., para. 31.
[61] Ibid., paras. 34-35.
[62] See country team submission, paras. 33 and 35. See also A/HRC/18/14, recommendation 73.35.
[63] See country team submission, para. 46.
[64] Ibid., para. 47.
[65] See CEDAW/C/WSM/CO/4-5, para. 5.
[66] Ibid., paras. 32-33.
[67] See country team submission, para. 51.
[68] See CEDAW/C/WSM/CO/4-5, para. 33.
[69] See CRC/C/WSM/Q/2-4, para. 11.
[70] See CEDAW/C/WSM/CO/4-5, paras. 32-33.
[71] Ibid., para. 28.
[72] Ibid., para. 29.
[73] ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning ILO Minimum Age Convention, 1973 (No.138) — Samoa, adopted in 2013, published 103rd ILC session (2014).
[74] See UNESCO submission, para. 43.
[75] Ibid., para. 44.
[76] Ibid., para. 46.
[77] See country team submission, para. 57.
[78] See UNESCO submission, para. 43.
[79] See country team submission, para. 62. See also A/HRC/18/14, recommendations 74.31, 74.9.
[80] See CRC/C/WSM/Q/2-4, para. 9.
[81] UNHCR submission, p. 1.

[82] Ibid., p. 3. See also A/HRC/18/14, recommendation 75.43.
[83] See country team submission, para. 65-67.
[84] See CRC/C/WSM/Q/2-4, para. 12.

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Samoa

The present report is a summary of 14 stakeholders' submissions[1] to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

GE.16-02571(E)

Please recycle

I. Information provided by stakeholders

A. Background and framework

1. Scope of international obligations[2]

1. The National Human Rights Institution[3] (NHRI) and JS3[4] recommended the Samoan Government to sign and ratify: the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its the Optional Protocol (OPCAT); the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). NHRI[5] and JS3[6] recommended the Samoan Government to ratify the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol. NHRI[7] recommended Samoa to ratify the Optional Protocol for the International Covenant on Civil and Political Rights (ICCPR); the Optional Protocol to the Convention on the Rights of the Child (CRC) on a communications procedure; and ILO Convention 159 - Vocational Rehabilitation and Employment (Disabled Persons), 1983. NHRI also recommended withdrawing the current reservation under Article 28 of the CRC.[8]

2. JS3 recommended that Samoa immediately sign and accede the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its Optional Protocol; the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); Optional Protocols to CRC; the International Convention on the Protection of the Rights of All Migrant Workers (ICPRMW) and Members of their Families; and ILO Convention (No. 169) concerning indigenous and tribal peoples in independent countries.[9]

3. JS3 also underlined that as a priority, Samoa should ratify, at a minimum, ICESCR, CERD, CAT, CRPD and ICPRMW by Samoa's third Universal Periodic Review (UPR). Samoa should also incorporate these instruments into its domestic law.[10]

4. The Center for Global Nonkilling (CGNK) noted that, as accepted in the first UPR cycle and if not done yet, Samoa should swiftly ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights regarding the abolition of the death penalty. CGNK also encouraged Samoa to make a strong effort to ratify as soon as possible all peace, settlement of disputes, disarmament and humanitarian treaties to which it is not yet a party, and recognize the compulsory jurisdiction of the International Court of Justice.[11]

5. Cultural Survival recommended Samoa to ratify the International Convention on the Elimination of All Forms of Racial Discrimination; the International Labour Organization Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries and Convention on Rights of Persons with Disabilities without reservation, and ILO Convention No. 159 (1983) - Vocational Rehabilitation and Employment (Disabled Persons).[12]

6. Goshen Trust noted that while the Government has signed the CRPD, it has not yet ratified it and therefore strongly urged the Government to proceed to the ratification of the Convention on the Rights of Persons with Disabilities and domesticate its provisions in its national laws.[13]

7. Oceania Human Rights (OHR) stated that Samoa should ratify CRPD immediately and indicated that the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) should be a national priority to ensure the realization of those rights for youth and elders in Samoa.[14]

8. JS1 recommended taking steps to immediately accede to the Optional Protocol on the sale of children, child prostitution and child pornography; and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.[15]

2. Constitutional and legislative framework

9. CGNK recommended that the Constitution of the State of Samoa be changed as soon as possible to remove provisions related to the death penalty, bearing in mind that the death penalty was abolished in 2004, thus definitely barring the possibility of such sentences. CGNK also recommended that the Constitution and the legislation of Samoa be amended to highly reflect the value of life, to limit possible exceptions to the respect of the right to life and to submit any official use of force to a judicial or independent authority.[16]

10. Goshen Trust noted that the Samoan Government should fully resource and implement the Mental Health Act 2007 and strengthen the protection of women and children with mental illness from domestic violence, sexual child and adolescent abuse through tougher legal penalties.[17]

11. JS4 commended the enactment of the Crimes Act, which increased the maximum penalties for most sexual offences and criminalized sexual offences, which include rape and unlawful sexual connection.[18]

12. JS1 also recommended Samoa to enact national anti-trafficking legislation criminalising all conduct related to trafficking in persons, especially children, in line with article 3 and article 5 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.[19]

13. According to Cultural Survival, there is no law pertaining specifically to the status of persons with disabilities or regarding accessibility for them.[20]

3. Institutional and human rights infrastructure and policy measures

14. The National Human Rights Institution stated that one of the key developments in the protection and promotion of human rights in Samoa since the first cycle of the UPR is the establishment, in 2013, of the Office of the Ombudsman as Samoa's NHRI. The Samoan Government should be commended for enacting legislation which provides the NHRI with a broad human rights protection mandate, in accordance with the Paris Principles.[21]

15. OHR noted the institution of an office of Ombudsman since 1988. OHR applauded the fact that in 2013 the Ombudsman became the National Human Rights Institution in Samoa.[22] JS3 recommended that Samoa support the establishment of a Pacific Human Rights Commission, to be housed in Samoa, which will develop policies and guidelines to address human rights concerns from countries in the Pacific region that do not have a human rights commission or whose commissions were suppressed by political agendas.[23]

16. JS4 commended the establishment of a Disability Unit within the Ministry of Women, Community and Social Development in 2015. This was a positive step towards strengthening the implementation of the national disability policy and better coordination of resources and efforts converging on the effective implementation of inclusive disability developments in the country.[24]

17. Goshen Trust noted that the Samoan Government should develop national policy or alternative education opportunities for young girls with mental and physical needs.[25]

18. Samoa Faafafine[26] Association (SFA) recommended that the Samoan Government takes the lead in the Pacific region on intersex issues and makes policies to address data

collection on intersex, sexual orientation and gender in Samoa; disclosure issues; inclusive language; body diversity issues; services and resources; and legislative review of all gender laws to ensure conformity with internationally recognised standards. [27]

19. Samoa Family Health Organization (SFHA) recommended Samoa to ensure the review and development of the existing national policies to include: the incorporation of Comprehensive Sexuality Education in all schools curriculum (Government, private and Church schools); alternative educational opportunities for young girls who become pregnant while in school; strengthening consultations with young people and civil societies; increased institutional capacity and awareness on all rights and information related to sexual and reproductive health. [28]

20. CGNK recommended implementing policies valuing life: as domestic violence usually causes more deaths of women than men and in order to guarantee the equal enjoyment of the right to life for all, Samoa needed to mainstream gender equality in all its policies. [29]

21. JS1 noted that Samoa should enact a comprehensive anti-trafficking national action plan to address the issue of trafficking in persons at multiple levels. [30] JS1 recommended the Samoan Government to engage in a public awareness campaign focused on educating the public on sexual exploitation of children, similar to previous campaigns on violence against women. [31]

22. Samoa National Council of Women (SNCW) noted that the Government should solicit technical and financial assistance from the developed countries to seriously support Institutional Systems Strengthening (ISS) for NGOs. [32]

B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

23. JS3 noted an increase in the recognition of women's rights, especially regarding senior roles and positions of leadership within Samoa's economy. Despite this increase, Samoan women continue to be marginalised within the Government, church communities and village councils where there are several impediments to overcome before women can truly benefit from equal enjoyment of rights. JS3 recommended that Samoa fulfil its commitment to equality and non-discrimination and ensure equal remuneration for men and women for work of equal value; support women who are matai [33] title holders and ensure that they have equal opportunity to participate in community and villages political decision making processes; align its laws on political representation to its obligations under CEDAW; and take corrective measures to reduce gender imbalance in the legislative and executive branches of the Government. [34]

24. The National Human Rights Institution recommended that the Samoan Government expand awareness raising programs for families to combat negative social and cultural attitudes towards teenage pregnancy; consider the serious plight of, and viable medical options for, victims who fall pregnant from unlawful sexual acts; and financially support NGOs working with victims of rape and incest. [35]

25. NHRI noted that there is a general lack of awareness about the meaning of equal participation, and its implications for Peoples with Disabilities (PWDs). While many of Samoa's laws and policies related to PWDs are in line with relevant international human rights law, Samoa has to make further efforts to implement these properly. The National Human Rights Institution recommended that the Samoan Government conduct an

awareness raising campaign throughout society, particularly at the family level and in rural areas, to foster respect for the rights and dignity of PWDs.[36]

26. JS2 noted positive steps taken by Samoa: repealing criminal provisions prohibiting males 'impersonating' females, prohibiting employment discrimination on the basis of sexual orientation; signing the Joint Statement on Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity; voting in favour of the Asian and Pacific Ministerial Declaration on Population and Development and establishing a National Human Rights Institution.[37] JS2 recommended that Samoa urgently repeal laws that criminalise consensual sexual activity between persons of the same sex;[38] enact comprehensive anti-discrimination legislation that prohibits discrimination on the grounds of sexual orientation, gender identity and intersex status in all areas of public life, including employment, health, education and access to goods and services; extend the same legal rights to same-sex couples as to opposite-sex married couples.[39]

27. SNCW recognised a gap in the application of the *faafafines* general protection as they are being abused, harassed and violated in many ways, including sexual abuse.[40]

28. Goshen Trust noted that one of the struggles of people with mental illness in Samoa is the stigma attached to the disability and the lack of appropriate response to create awareness around this disability. Mental illness is often argued as not a disability in Samoa; therefore, there is a need for more awareness and acceptance by the Government of this disability in order to strengthen intervention strategies involving survivors of mental illness and appropriate financing of programs.[41]

2. Right to life, liberty and security of the person

29. JS3 stated that domestic, sexual violence and abuse against children are widespread and continue to be a problem in Samoa. JS3 recommended that the Government provide tougher penalties around sexual violence and abuse of children; strengthen its child protection laws in these areas and urgently set up a child sex offenders' register.[42]

30. NHRI believed that violence within the home must be addressed with all genders and ages. The widely held belief that family problems, such as domestic violence, should be settled within the family helps foster a 'culture of silence' within villages. Samoa has taken measures to address this issue with the passage of the Family Safety Act (2013), but there is limited public knowledge of this law, and how to engage in the legal proceedings it entails. The National Human Rights Institution recommended the Samoan Government to work with village councils, relevant authorities and engaged NGOs to increase public awareness of the Family Safety Act (2013), and its legal proceedings. The National Human Rights Institution also recommended reviewing the Family Safety Act (2013) for the inclusion of protection for persons who report incidence of violence, including sexual violence.[43]

31. JS3 commended the Government for passing the Family Safety Act (2013) and its current implementation though there is a need to increase awareness around its provisions especially on protection orders and on a multi-sectoral approach to address domestic violence. JS3 noted that UPR Working Group recommendation 73.32 (A/HRC/18/14) - criminalisation of rape within marriage - has yet to be implemented and urgently recommended that the Government fulfils this recommendation, and that adequately and sufficiently resource the implementation of the Family Safety Act 2013.[44]

32. NHRI indicated that sexual abuse and incest are condemned by both national law and *fa'asamoa* (the Samoan way of life). Despite this, the NHRI is concerned that sexual abuse and incest are prevalent and there is a lack of information and statistical data on their

nature, extent and causes. Further, young children are not aware of where to report child abuse or incest. The National Human Rights Institution recommended that the Samoan Government collaborate with it and relevant NGOs to deliver a community education campaign to dispel the misconception about the rights of the child. The NHRI should work with the Samoan Government to investigate and develop child-friendly reporting avenues for child abuse, sexual assault and incest.[45]

33. The International Center for Advocates Against Discrimination (ICAAD) noted that it is important for the Samoan Government and *fono*[46] to raise awareness that domestic violence and sexual assault are intolerable behaviours in any circumstance, and limit the use of *ifoga*[47] as a mitigating factor in Court. Therefore, ICAAD recommended Samoa to enact legislation to specifically criminalize violence against women, and make spousal rape illegal. Legislation should also allow the victim/survivor to be entitled to restitution in both civil and criminal proceedings. To ensure judicial accountability and consistency in sentencing, ICAAD recommended the creation of a sentence monitoring system.[48]

34. Cultural Survival noted that many cases of rape and domestic abuse go unreported because common societal attitudes discourage such reporting.[49]

35. Initiative to End All Corporal Punishment of Children stated that corporal punishment of children in Samoa is unlawful in the penal system but it is only partly prohibited in schools and day care settings, and it is not prohibited in alternative care settings or the home. Achieving full prohibition requires the enactment of legislation clearly prohibiting corporal punishment in these settings and explicitly repealing the right "to administer punishment" in the Infants Ordinance 1961. The Child Care and Protection Bill currently under discussion provides an opportunity to achieve the necessary reforms, but it requires amendment in order to do so.[50]

36. JS3 noted that incidences of child vendors particularly after school hours and during school holidays continue interfering with child's education and social development. JS3 recommended taking measures to reduce numbers of child vendors, consistently with its obligations under ILO Convention (No. 182) concerning the prohibition and immediate action for the elimination of the worst forms of child labour and ILO Convention (No. 138) concerning minimum age for admission to employment.[51]

3. Administration of justice, including impunity, and the rule of law

37. Noting the progress since the last review about administration of justice, JS3 stated that there remains an inadequate and unequal access to justice in Samoa. The public remains uninformed of the major changes in the powers of the Ombudsman and services under the Ombudsman Amendment Act 2013. Access to lawyers and to the court system is unaffordable for many. JS3 commended the Government's decision to implement a Community Law Centre, which will help marginalised population, and recommended expediting the resourcing and set up of this essential service for Samoa people. JS3 also recommended promoting effective public awareness programs related to the roles of the Office of the Ombudsman.[52]

38. NHRI welcomed recent developments in the criminal justice system including the establishment of an independent monitoring mechanism for places of detention, the establishment of a Youth Court, and a range of reforms enacted through the Prisons and Corrections Act 2013. NHRI recommended that the Samoan Government fully implement the Prisons and Corrections Act 2013, and the recommendations contained within the NHRI's 'Detention Centre Inspections Report', June 2015, which includes addressing prison water supply, improving hygiene, classifying and separating prisoners, developing a standard induction process, and improving access to health care; developing and

implementing comprehensive educational and vocational training and rehabilitation programs for prisoners.[53]

4. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

39. NHRI believed that women's involvement in decision-making must be addressed at both the village and national levels, and mutual strengthening may result in improved women's representation at both levels. The National Human Rights Institution recommended that the Samoan Government in collaboration with it and relevant non-governmental organisations raise awareness of gender role stereotyping and its effects on women, targeting both men and women at all levels of society.[54]

5. Right to work and to just and favourable conditions of work

40. Goshen Trust noted that the Government should review employment laws to ensure that discrimination is addressed effectively in all work places.[55]

6. Right to social security and to an adequate standard of living

41. The National Human Rights Institution recommended that the Samoan Government provide adequate and sustainable funding for the implementation of the Water for Life Sector Plan 2012-2016 and the National Sanitation Policy 2010 within the national budget.[56]

7. Right to health

42. SFHA recommended Samoa to ensure access to sexual and reproductive health services to all persons without discrimination of age, class, marital status or minority status. Samoa should take positive and concrete measures to train health care providers on sensitive, confidential and effective ways to provide these services.[57] SNCW added that there are a number of issues concerning rural women's rights to health services.[58]

43. The National Human Rights Institution recommended that the Samoan Government address quality issues and the accessibility gap for rural and remote areas, and the community's perception of affordability of health care through health literacy campaigns.[59]

44. SFHA recommended Samoa to undertake evidence-based data collections on reasons for the low level of contraceptive use among women, especially on specific target groups of population with unmet need for contraception. The Government of Samoa should collect data on unsafe abortion in order to record its magnitude on women and girls' health.[60]

45. Regarding implementation of recommendation 73.36 (A/HRC/18/14), JS3 recommended Samoa to improve the quality of health care service delivery ensuring that there is sufficient medical personnel outsourced to the district healthcare facilities and in the main resource centre; increase scholarship opportunities for medical studies and seek bilateral assistance to increase scholarship opportunities; strengthen health promotion and primordial prevention.[61]

8. Right to education

46. The National Human Rights Institution noted that Samoa is on track to meet Millennium Development Goal 2 in achieving universal compulsory primary education with the national schooling participation rate for children aged 5-14 above 90% since 2005. Primary and secondary education in Samoa is free under the Samoa School Fee Grant Scheme. The National Human Rights Institution recommended that the Samoan

Government assist in reducing the incidental cost of education so that primary education in Samoa can be completely free, and ensure enforcement of the Education Act 2009 to reduce the amount of school-aged children working as street vendors.[62]

47. Regarding implementation of recommendations 73.38 and 73.39 (A/HRC/18/14), JS3 stated that education in Samoa is compulsory from ages 5 to 14, but there are still many children noticeably roaming the streets instead of attending school, and there is still lack of enforceability of the Education Act 2009 and minimum resourcing to ensure proper implementation. JS3 recommended increasing financial resources and oversight to ensure the full implementation of the Education Act.[63]

48. OHR stated that human rights education shall be a priority in all educational institutions from elementary to the National University of Samoa. OHR noted that comprehensive and creative education curriculum could inspire Samoans to continue to improve daily living and enrich their spirit of solidarity. A national conference on human rights education will allow assessing the current best practices and sharing ideas for new initiatives.[64]

9. Cultural rights

49. The National Human Rights Institution noted that it is important to understand the relationship between *fa'asamoa* (the Samoan way of life) and the international human rights system. Human rights are underpinned by the core values of universality, interdependence and indivisibility, equality and non-discrimination. Similarly, *fa'asamoa* holds core values that guide social interaction such as respect, dignity, love, protection, and service. The NHRI believes that international human rights principles and the core values of *fa'asamoa* mutually reinforce each other. The National Human Rights Institution recommended that the Samoan Government, in collaboration with it, conduct more human rights awareness activities in order to dispel misconceptions about human rights in Samoa.[65]

10. Persons with disabilities

50. JS4 recommended taking the necessary measures to strengthen the implementation of the national building code, of the disability accessibility guidelines and other strategies to improve access to services, transports, information, and physical environment by all persons with disabilities. In addition, JS4 encouraged Samoa to continue in its efforts to provide adequate resources to support the effective implementation of the action of the national disability task force and disability unit.[66]

11. Minorities and indigenous peoples

51. Cultural Survival noted that communal land rights were threatened starting from 2008 with the Land Titles and Registration Act. If not properly managed, the historically rich land of Samoa could be overrun by developers who lack the mindful care of the indigenous peoples who have spent generations as stewards of their family lands.[67]

52. Cultural Survival recommended Samoa to ensure the participation of indigenous communities in the development of policy on climate change adaptation and mitigation, in accordance with the principles of free, prior, informed consent and adopt an action plan to distribute disaster relief to rural parts of the island to help ensure a speedy recovery for small indigenous communities that lack access to aid. Moreover, Cultural Survival recommended taking steps to protect communal land rights of indigenous peoples and ensure that any land concession to foreign companies and developers follows a process of free, prior, informed consent.[68]

12. Environmental issues

53. OHR stated that an emerging priority, which requires attention, relates to climate change and human rights. OHR noted that roughly 70% of the population inhabits low-lying coastal areas and a great deal of infrastructure is along the coast.[69]

54. Cultural Survival indicated that Samoa does have active programs within the Global Climate Change Alliance, that include adaptation to climate change to protect the water sector, as well as general disaster aid to remote areas. Even with these programs, Samoa still needs to improve aid and relief for natural disasters and must do more to ensure the inclusion of indigenous peoples into policy making.[70]

55. Regarding implementation of recommendation 73.41 (A/HRC/18/14), JS3 stated that awareness of people on climate change issues and its impact remain a challenge and need to be effectively addressed by the Government. JS3 recommended mainstreaming climate change mitigation and adaptation strategies within the Education Curriculum and within the Government and the Samoan community at large; and adopting a multi-sectoral approach including the involvement of non-governmental organisations in raising awareness within Samoa and internationally.[71]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org

Civil society

Individual submissions

CNGK	The Center for Global Nonkilling, Honolulu (United States of America);
CS	Cultural Survival, Cambridge (United States of America);
GIEPAC	Global Initiative to End All Punishment Against Children, London(United Kingdom);
GT	Goshen Trust, Apia (Samoa);
ICAAD	International Center for Advocates Against Discrimination, New York (United States of America);
OHR	Oceania Human rights, Honolulu (United States of America);
SFA	The Samoa Faafafine Association, Apia (Samoa);
SFHA	Samoa Family Helath Organization, Apia (Samoa);
SNCW	Samoa National Council of Women, Apia (Samoa);

Joint submissions:

JS1	Joint Submission 1 submitted by: SVSG – Samoa Victim Support Group, ECPAT - End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes, Bangkok (Thailand);
JS2	Joint Submission 2 submitted by: AKAHATA, Buenos Aires (Argentina); Kaleidoscope Australia Human Rights Foundation; Sexual Rights Initiative, Ottawa (Canada);
JS3	Joint Submission 3 submitted by: Adventist Disasters Relief Agency [ADRA], Goshen Trust, Nuanua o le Alofa [NOLA], Pan Pacific South East Asia Women Association [PPSEAWA], Samoa Family Health Association [SFHA] , Senese, SUNGO; Apia (Samoa);
JS4	Joint Submission 4 submitted by: Nuanua O Le Alofa [NOLA], Senese, Apia (Samoa)

National Human Rights Institution:

Samoa National Human Rights Institution, Apia (Samoa)

[2] The following abbreviations are used in UPR documents:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR

ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance

[3] Samoa National Human Rights Institution, Submission to the UPR, pages 3 and 4.
[4] JS3, Submission to the UPR, pages 1 and 2.
[5] Samoa National Human Rights Institution, Submission to the UPR, pages 3 and 4.
[6] JS3, Submission to the UPR, pages 1 and 2.
[7] Samoa National Human Rights Institution, Submission to the UPR, pages 3 and 4.
[8] Samoa National Human Rights Institution, Submission to the UPR, page 8.
[9] JS3, Submission to the UPR, pages 1 and 2.
[10] JS3, Submission to the UPR, page 2.
[11] CGNK, Submission to the UPR, page 3 and 4. See A/HRC/18/14/Add.1, paras. 2 and 3.
[12] Cultural Survival, Submission to the UPR, page 5
[13] Goshen Trust, Submission to the UPR, page 5
[14] Oceania Human Rights, Submission to the UPR, page 1
[15] JS1, Submission to the UPR, page 3-4
[16] CGNK, Submission to the UPR, page 3 and 4
[17] Goshen Trust, Submission to the UPR, page 4
[18] JS4, Submission to the UPR, page 2
[19] JS1, Submission to the UPR, page 3
[20] Cultural Survival, Submission to the UPR, page 4
[21] Samoa National Human Rights Institution, Submission to the UPR, page 4.
[22] Oceania Human Rights, Submission to the UPR, page 2
[23] JS3, Submission to the UPR, page 2.
[24] JS4, Submission to the UPR, page 2
[25] Goshen Trust, Submission to the UPR, page 4
[26] Transgender individual, www.usp.ac.fj
[27] The Samoa Faafafine Association, Submission to the UPR, page 5
[28] SFHA, Submission to the UPR, page 4
[29] CGNK, Submission to the UPR, page 5 and 6
[30] JS1, Submission to the UPR, page 3
[31] JS1, Submission to the UPR, page 4.
[32] SNCW, Submission to the UPR, page 3
[33] High chiefs of the county, village and family, www.pasefika.com.
[34] JS3, Submission to the UPR, page 3.
[35] Samoa National Human Rights Institution, Submission to the UPR, page 12.
[36] Samoa National Human Rights Institution, Submission to the UPR, page 10.

[37] JS2, Submission to the UPR, page 1
[38] JS2, Submission to the UPR, page 2
[39] JS2, Submission to the UPR, page 4
[40] SNCW, Submission to the UPR, page 4
[41] Goshen Trust, Submission to the UPR, page 5
[42] JS3, Submission to the UPR, pages 3 and 4.
[43] Samoa National Human Rights Institution, Submission to the UPR, page 7.
[44] JS3, Submission to the UPR, page 5.
[45] Samoa National Human Rights Institution, Submission to the UPR, page 9.
[46] A Samoan council of faipules (Samoan native councillor heading a political district and belonging to a Fono) constituting the central political structure of a village, district or island; www.mirriam-webster.com/dictionary
[47] Ritual apology, http://tpo.tepapa.govt.nz/ViewTopicExhibitDetail.asp?TopicFileID=0x000a27d7
[48] ICAAD, Submission to the UPR, page 5
[49] Cultural Survival, Submission to the UPR, page 4
[50] Global Initiative to End All Corporal Punishment of Children, Submission to the UPR, page 2
[51] JS3, Submission to the UPR, page 4.
[52] JS3, Submission to the UPR, pages 5 and 6.
[53] Samoa National Human Rights Institution, Submission to the UPR, page 10.
[54] Samoa National Human Rights Institution, Submission to the UPR, page 6.
[55] Goshen Trust, Submission to the UPR, page 4
[56] Samoa National Human Rights Institution, Submission to the UPR, page 13.
[57] SFHA, Submission to the UPR, page 5
[58] SNCW, Submission to the UPR, page 4
[59] Samoa National Human Rights Institution, Submission to the UPR, pages 10 and 11.
[60] SFHA, Submission to the UPR, page 5
[61] JS3, Submission to the UPR, page 7.
[62] Samoa National Human Rights Institution, Submission to the UPR, pages 8 and 9.
[63] JS3, Submission to the UPR, page 8.
[64] Oceania Human Rights, Submission to the UPR, page 2
[65] Samoa National Human Rights Institution, Submission to the UPR, page 5.
[66] JS4, Submission to the UPR, page 3
[67] Cultural Survival, Submission to the UPR, page 4
[68] Cultural Survival, Submission to the UPR, page 5
[69] Oceania Human Rights, Submission to the UPR, page 2
[70] Cultural Survival, Submission to the UPR, page 3
[71] JS3, Submission to the UPR, page 8.